

Purchasing Laws

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**Legislative
Audit
Commission**

2004 Purchasing Laws

With the enactment of the Illinois Procurement Code in 1998 and other modifications thereafter, the State of Illinois has substantially changed the way it procures products and services. This booklet is intended as a ready source of information regarding basic procurement statutes. The user should be aware that a number of laws and regulations govern procurement transactions including the State Finance Act, the Property Control Act, the Comptroller's Statewide Accounting Management System (SAMS), and regulations of the Department of Central Management Services.

The Legislative Audit Commission has had an active interest in ensuring greater accountability in State government through its purchasing laws. The Commission is also responsible for the review of all emergency purchases. Finally, the regular compliance audit review activity disclosed many instances of insufficient knowledge of statutory requirements leading to violations and audit exceptions. Hopefully, this booklet will help reduce the frequency of these errors.

The Commission looks forward to suggestions and assistance from users of the booklet to make future editions even more informative. Users of the booklet should contact legal counsel concerning specific procurement questions. For Procurement Code information and questions concerning purchasing regulations, State agencies may wish to contact CMS at 217/782-1190.

The assistance of the Legislative Reference Bureau, the Legislative Information System, and the Legislative Printing Unit makes this booklet possible.

Legislative Audit Commission
622 Stratton Office Building
Springfield, IL 62706
217/782-7097

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STATE OFFICIALS AND EMPLOYEES ETHICS ACT

5 ILCS 430/

ARTICLE 1

GENERAL PROVISIONS

5 ILCS 430/

SHORT TITLE

(5 ILCS 430/1-1)

Sec. 1-1. Short title. This Act may be cited as the State Officials and Employees Ethics Act.

(Source: P.A. 93-615, eff. 11-19-03.)

DEFINITIONS

(5 ILCS 430/1-5)

Sec. 1-5. Definitions. As used in this Act:

"Appointee" means a person appointed to a position in or with a State agency, regardless of whether the position is compensated.

"Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official State duties.

"Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected State office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at either a general primary election or general election.

"Collective bargaining" has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act.

"Commission" means an ethics commission created by this Act.

"Compensated time" means any time worked by or credited to a State employee that counts toward any minimum work time requirement imposed as a condition of employment with a State agency, but does not include any designated State holidays or any period when the employee is on a leave of absence.

"Compensatory time off" means authorized time off earned by or awarded to a State employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of employment with a State agency.

"Contribution" has the same meaning as that term is defined in Section 9-1.4 of the Election Code.

"Employee" means (i) any person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed or (ii) any appointee.

"Executive branch constitutional officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an employee, member, or officer.

"Governmental entity" means a unit of local government or a school district but not a State agency.

"Leave of absence" means any period during which a State employee does not receive (i) compensation for State employment, (ii) service credit towards State pension benefits, and (iii) health insurance benefits paid for by the State.

"Legislative branch constitutional officer" means a member of the General Assembly and the Auditor General.

"Legislative leader" means the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

"Member" means a member of the General Assembly.

"Officer" means an executive branch constitutional officer or a legislative branch constitutional officer.

"Political" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official State duties.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

"Prohibited political activity" means:

(1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

(2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.

(3) Soliciting, planning the solicitation of, or preparing any document or report regarding any thing of value intended as a campaign contribution.

(4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.

(7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

(8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

(10) Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.

(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

(12) Campaigning for any elective office or for or against any referendum question.

(13) Managing or working on a campaign for elective office or for or against any referendum question.

(14) Serving as a delegate, alternate, or proxy to a political party convention.

(15) Participating in any recount or challenge to the outcome of any election, except to the extent that under subsection (d) of Section 6 of Article IV of the Illinois Constitution each house of the General Assembly shall judge the elections, returns, and qualifications of its members.

"Prohibited source" means any person or entity who:

(1) is seeking official action (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee;

(2) does business or seeks to do business (i) with the member or officer or (ii) in the case of an employee, with the employee or with the member, officer, State agency, or other employee directing the employee;

(3) conducts activities regulated (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee;

(4) has interests that may be substantially affected by the performance or non-performance of the official duties of the member, officer, or employee; or

(5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors.

"State agency" includes all officers, boards, commissions and agencies created by the Constitution, whether in the executive or legislative branch; all officers, departments, boards, commissions, agencies, institutions, authorities, public institutions of higher learning as defined in Section 2 of the Higher Education Cooperation Act, and bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government which are created by or pursuant to statute, other than units of local government and their officers, school districts, and boards of election commissioners; and all administrative units and corporate outgrowths of the above and as may be created by executive order of the Governor. "State agency" includes the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, and the legislative support services agencies. "State agency" includes the Office of the Auditor General. "State agency" does not include the judicial branch.

"State employee" means any employee of a State agency.

"Ultimate jurisdictional authority" means the following:

(1) For members, legislative partisan staff, and legislative secretaries, the appropriate legislative leader: President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, or Minority Leader of the House of Representatives.

(2) For State employees who are professional staff or employees of the Senate and not covered under item (1), the Senate Operations Commission.

(3) For State employees who are professional staff or employees of the House of Representatives and not covered under item (1), the Speaker of the House of Representatives.

(4) For State employees who are employees of the legislative support services agencies, the Joint Committee on Legislative Support Services.

(5) For State employees of the Auditor General, the Auditor General.

(6) For State employees of public institutions of higher learning as defined in Section 2 of the Higher Education Cooperation Act, the board of trustees of the appropriate public institution of higher learning.

(7) For State employees of an executive branch constitutional officer other than those described in paragraph (6), the appropriate executive branch constitutional officer.

(8) For State employees not under the jurisdiction of paragraph (1), (2), (3), (4), (5), (6), or (7), the Governor.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

APPLICABILITY

(5 ILCS 430/1-10)

Sec. 1-10. Applicability. The State Officials and Employees Ethics Act applies only to conduct that occurs on or after the effective date of this Act and to causes of action that accrue on or after the effective date of this Act.

(Source: P.A. 93-615, eff. 11-19-03.)

ARTICLE 5 ETHICAL CONDUCT 5 ILCS 430/

PERSONNEL POLICIES

(5 ILCS 430/5-5)

Sec. 5-5. Personnel policies.

(a) Each of the following shall adopt and implement personnel policies for all State employees under his, her, or its jurisdiction and control: (i) each executive branch constitutional officer, (ii) each legislative leader, (iii) the Senate Operations Commission, with respect to legislative employees under Section 4 of the General Assembly Operations Act, (iv) the Speaker of the House of Representatives, with respect to legislative employees under Section 5 of the General Assembly Operations Act, (v) the Joint Committee on Legislative Support Services, with respect to State employees of the legislative support services agencies, (vi) members of the General Assembly, with respect to legislative assistants, as provided in Section 4 of the General Assembly Compensation Act, (vii) the Auditor General, (viii) the Board of Higher Education, with respect to State employees of public institutions of higher learning except community colleges, and (ix) the Illinois Community College Board, with respect to State employees of community colleges. The Governor shall adopt and implement those policies for all State employees of the executive branch not under the jurisdiction and control of any other executive branch constitutional officer.

(b) The policies required under subsection (a) shall be filed with the appropriate ethics commission established under this Act or, for the Auditor General, with the Office of the Auditor General.

(c) The policies required under subsection (a) shall include policies relating to work time requirements, documentation of time worked, documentation for reimbursement for travel on official State business, compensation, and the earning or accrual of State benefits for all State employees who may be eligible to receive those benefits. The policies shall comply with and be

consistent with all other applicable laws. The policies shall require State employees to periodically submit time sheets documenting the time spent each day on official State business to the nearest quarter hour; contractual State employees may satisfy the time sheets requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement. The policies for State employees shall require those time sheets to be submitted on paper, electronically, or both and to be maintained in either paper or electronic format by the applicable fiscal office for a period of at least 2 years.

(d) The policies required under subsection (a) shall be adopted by the applicable entity before February 1, 2004 and shall apply to State employees beginning 30 days after adoption. (Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

ETHICS TRAINING

(5 ILCS 430/5-10)

Sec. 5-10. Ethics training. Each officer, member, and employee must complete, at least annually beginning in 2004, an ethics training program conducted by the appropriate State agency. Each ultimate jurisdictional authority must implement an ethics training program for its officers, members, and employees. These ethics training programs shall be overseen by the appropriate Ethics Commission and Inspector General appointed pursuant to this Act in consultation with the Office of the Attorney General.

Each Inspector General shall set standards and determine the hours and frequency of training necessary for each position or category of positions. A person who fills a vacancy in an elective or appointed position that requires training and a person employed in a position that requires training must complete his or her initial ethics training within 6 months after commencement of his or her office or employment.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

PROHIBITED POLITICAL ACTIVITIES

(5 ILCS 430/5-15)

Sec. 5-15. Prohibited political activities.

(a) State employees shall not intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off). State employees shall not intentionally misappropriate any State property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.

(b) At no time shall any executive or legislative branch constitutional officer or any official, director, supervisor, or State employee intentionally misappropriate the services of any State employee by requiring that State employee to perform any prohibited political activity (i) as part of that employee's State duties, (ii) as a condition of State employment, or (iii) during any time off that is compensated by the State (such as vacation, personal, or compensatory time off).

(c) A State employee shall not be required at any time to participate in any prohibited political activity in consideration for that State employee being awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise.

(d) A State employee shall not be awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, in consideration for the State employee's participation in any prohibited political activity.

(e) Nothing in this Section prohibits activities that are otherwise appropriate for a State employee to engage in as a part of his or her official State employment duties or activities that are undertaken by a State employee on a voluntary basis as permitted by law.

(f) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of State employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

(Source: P.A. 93-615, eff. 11-19-03.)

PUBLIC SERVICE ANNOUNCEMENTS; OTHER PROMOTIONAL MATERIAL

(5 ILCS 430/5-20)

Sec. 5-20. Public service announcements; other promotional material.

(a) Beginning January 1, 2004, no public service announcement or advertisement that is on behalf of any State administered program and contains the proper name, image, or voice of any executive branch constitutional officer or member of the General Assembly shall be broadcast or aired on radio or television or printed in a commercial newspaper or a commercial magazine at any time.

(b) The proper name or image of any executive branch constitutional officer or member of the General Assembly may not appear on any (i) bumper stickers, (ii) commercial billboards, (iii) lapel pins or buttons, (iv) magnets, (v) stickers, and (vi) other similar promotional items, if designed, paid for, prepared, or distributed using public dollars. This subsection does not apply to stocks of items existing on the effective date of this amendatory Act of the 93rd General Assembly.

(c) This Section does not apply to communications funded through expenditures required to be reported under Article 9 of the Election Code.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

PROHIBITED OFFER OR PROMISE

(5 ILCS 430/5-30)

Sec. 5-30. Prohibited offer or promise. An officer or employee of the executive or legislative branch or a candidate for an executive or legislative branch office may not promise anything of value related to State government, including but not limited to positions in State government, promotions, or salary increases, in consideration for a contribution to a political committee, political party, or other entity that has as one of its purposes the financial support of a candidate for elective office.

Nothing in this Section prevents the making or accepting of voluntary contributions otherwise in accordance with law.

(Source: P.A. 93-615, eff. 11-19-03.)

CONTRIBUTIONS ON STATE PROPERTY

(5 ILCS 430/5-35)

Sec. 5-35. Contributions on State property. Contributions shall not be intentionally solicited, accepted, offered, or made on State property by public officials, by State employees, by candidates for elective office, by persons required to be registered under the Lobbyist Registration Act, or by any officers, employees, or agents of any political organization, except as provided in this Section. For purposes of this Section, "State property" means any building or portion thereof owned or exclusively leased by the State or any State agency at the time the contribution is solicited, offered, accepted, or made. "State property" does not however, include any portion of a building that is rented or leased from the State or any State agency by a private person or entity.

An inadvertent solicitation, acceptance, offer, or making of a contribution is not a violation of this Section so long as reasonable and timely action is taken to return the contribution to its source.

The provisions of this Section do not apply to the residences of State officers and employees, except that no fundraising events shall be held at residences owned by the State or paid for, in whole or in part, with State funds.

(Source: P.A. 93-615, eff. 11-19-03.)

FUNDRAISING IN SANGAMON COUNTY

(5 ILCS 430/5-40)

Sec. 5-40. Fundraising in Sangamon County. Except as provided in this Section, any executive branch constitutional officer, any candidate for an executive branch constitutional office, any member of the General Assembly, any candidate for the General Assembly, any political caucus of the General Assembly, or any political committee on behalf of any of the foregoing may not hold a fundraising function in Sangamon County on any day the legislature is in session (i) during the period beginning February 1 and ending on the later of the actual adjournment dates of either house of the spring session and (ii) during fall veto session. For purposes of this Section, the legislature is not considered to be in session on a day that is solely a perfunctory session day or on a day when only a committee is meeting.

During the period beginning June 1 and ending on the first day of fall veto session each year, this Section does not apply to (i) a member of the General Assembly whose legislative or representative district is entirely within Sangamon County or (ii) a candidate for the General Assembly from that legislative or representative district.

(Source: P.A. 93-615, eff. 11-19-03.)

PROCUREMENT; REVOLVING DOOR PROHIBITION

(5 ILCS 430/5-45)

Sec. 5-45. Procurement; revolving door prohibition.

(a) No former officer, member, or State employee, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer, member, or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in the decision to award State contracts with a cumulative value of over \$25,000 to the person or entity, or its parent or subsidiary.

(b) No former officer of the executive branch or State employee of the executive branch with regulatory or licensing authority, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer or State employee, during the year immediately preceding termination of State employment, made a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary.

(c) The requirements of this Section may be waived (i) for the executive branch, in writing by the Executive Ethics Commission, (ii) for the legislative branch, in writing by the Legislative Ethics Commission, and (iii) for the Auditor General, in writing by the Auditor General. During the time period from the effective date of this amendatory Act of the 93rd General Assembly until the Executive Ethics Commission first meets, the requirements of this Section may be waived in writing by the appropriate ultimate jurisdictional authority. During the time period from the effective date of this amendatory Act of the 93rd General Assembly until the Legislative Ethics Commission first meets, the requirements of this Section may be waived in writing by the appropriate ultimate jurisdictional authority. The waiver shall be granted upon a

showing that the prospective employment or relationship did not affect the decisions referred to in sections (a) and (b).

(d) This Section applies only to persons who terminate an affected position on or after the effective date of this amendatory Act of the 93rd General Assembly.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

EX PARTE COMMUNICATIONS; SPECIAL GOVERNMENT AGENTS

(5 ILCS 430/5-50)

Sec. 5-50. Ex parte communications; special government agents.

(a) This Section applies to ex parte communications made to any agency listed in subsection (e).

(b) "Ex parte communication" means any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the agency. "Ex parte communication" does not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and (iii) statements made by a State employee of the agency to the agency head or other employees of that agency.

(b-5) An ex parte communication received by an agency, agency head, or other agency employee from an interested party or his or her official representative or attorney shall promptly be memorialized and made a part of the record.

(c) An ex parte communication received by any agency, agency head, or other agency employee, other than an ex parte communication described in subsection (b-5), shall immediately be reported to that agency's ethics officer by the recipient of the communication and by any other employee of that agency who responds to the communication. The ethics officer shall require that the ex parte communication be promptly made a part of the record. The ethics officer shall promptly file the ex parte communication with the Executive Ethics Commission, including all written communications, all written responses to the communications, and a memorandum prepared by the ethics officer stating the nature and substance of all oral communications, the identity and job title of the person to whom each communication was made, all responses made, the identity and job title of the person making each response, the identity of each person from whom the written or oral ex parte communication was received, the individual or entity represented by that person, any action the person requested or recommended, and any other pertinent information. The disclosure shall also contain the date of any ex parte communication.

(d) "Interested party" means a person or entity whose rights, privileges, or interests are the subject of or are directly affected by a regulatory, quasi-adjudicatory, investment, or licensing matter.

(e) This Section applies to the following agencies:

- Executive Ethics Commission
- Illinois Commerce Commission
- Educational Labor Relations Board
- State Board of Elections
- Illinois Gaming Board
- Health Facilities Planning Board
- Industrial Commission
- Illinois Labor Relations Board
- Illinois Liquor Control Commission
- Pollution Control Board
- Property Tax Appeal Board

Illinois Racing Board
Illinois Purchased Care Review Board
Department of State Police Merit Board
Motor Vehicle Review Board
Prisoner Review Board
Civil Service Commission
Personnel Review Board for the Treasurer
Merit Commission for the Secretary of State
Merit Commission for the Office of the Comptroller
Court of Claims
Board of Review of the Department of Employment Security
Department of Insurance
Department of Professional Regulation and licensing boards
under the Department
Department of Public Health and licensing boards under the
Department
Office of Banks and Real Estate and licensing boards under
the Office
State Employees Retirement System Board of Trustees
Judges Retirement System Board of Trustees
General Assembly Retirement System Board of Trustees
Illinois Board of Investment
State Universities Retirement System Board of Trustees
Teachers Retirement System Officers Board of Trustees

(f) Any person who fails to (i) report an ex parte communication to an ethics officer, (ii) make information part of the record, or (iii) make a filing with the Executive Ethics Commission as required by this Section or as required by Section 5-165 of the Illinois Administrative Procedure Act violates this Act.

(Source: P.A. 93-617, eff. 12-9-03.)

PROHIBITION ON SERVING ON BOARDS AND COMMISSIONS

(5 ILCS 430/5-55)

Sec. 5-55. Prohibition on serving on boards and commissions. Notwithstanding any other law of this State, on and after February 1, 2004, a person, his or her spouse, and any immediate family member living with that person is ineligible to serve on a board, commission, authority, or task force authorized or created by State law or by executive order of the Governor if (i) that person is entitled to receive more than 7 1/2% of the total distributable income under a State contract other than an employment contract or (ii) that person together with his or her spouse and immediate family members living with that person are entitled to receive more than 15% in the aggregate of the total distributable income under a State contract other than an employment contract; except that this restriction does not apply to any of the following:

(1) a person, his or her spouse, or his or her immediate family member living with that person, who is serving in an elective public office, whether elected or appointed to fill a vacancy; and

(2) a person, his or her spouse, or his or her immediate family member living with that person, who is serving on a State advisory body that makes nonbinding recommendations to an agency of State government but does not make binding recommendations or determinations or take any other substantive action.

(Source: P.A. 93-617, eff. 12-9-03.)

ARTICLE 10
GIFT BAN
5 ILCS 430/

GIFT BAN

(5 ILCS 430/10-10)

Sec. 10-10. Gift ban. Except as otherwise provided in this Article, no officer, member, or State employee shall intentionally solicit or accept any gift from any prohibited source or in violation of any federal or State statute, rule, or regulation. This ban applies to and includes the spouse of and immediate family living with the officer, member, or State employee. No prohibited source shall intentionally offer or make a gift that violates this Section.

(Source: P.A. 93-617, eff. 12-9-03.)

GIFT BAN; EXCEPTIONS

(5 ILCS 430/10-15)

Sec. 10-15. Gift ban; exceptions. The restriction in Section 10-10 does not apply to the following:

(1) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(2) Anything for which the officer, member, or State employee pays the market value.(3) Any (i) contribution that is lawfully made under the Election Code or under this Act or (ii) activities associated with a fundraising event in support of a political organization or candidate.

(4) Educational materials and missions. This exception may be further defined by rules adopted by the appropriate ethics commission or by the Auditor General for the Auditor General and employees of the Office of the Auditor General.

(5) Travel expenses for a meeting to discuss State business. This exception may be further defined by rules adopted by the appropriate ethics commission or by the Auditor General for the Auditor General and employees of the Office of the Auditor General.

(6) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiance or fiancée.

(7) Anything provided by an individual on the basis of a personal friendship unless the member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the member, officer, or employee and not because of the personal friendship.

In determining whether a gift is provided on the basis of personal friendship, the member, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

(ii) whether to the actual knowledge of the member, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(iii) whether to the actual knowledge of the member, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other members, officers, or employees.

(8) Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to eat and delivered by any means.

(9) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer, member, or employee as an office holder or employee) of the officer, member, or employee, or the spouse of the officer, member, or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer, member, or employee, and are customarily provided to others in similar circumstances.

(10) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to a member, officer, or employee of a State agency from another member, officer, or employee of the same State agency; and "inter-governmental gift" means any gift given to a member, officer, or employee of a State agency, by a member, officer, or employee of another State agency, of a federal agency, or of any governmental entity.

(11) Bequests, inheritances, and other transfers at death.

(12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the exceptions listed in this Section is mutually exclusive and independent of one another.

(Source: P.A. 93-617, eff. 12-9-03.)

GIFT BAN; DISPOSITION OF GIFTS

(5 ILCS 430/10-30)

Sec. 10-30. Gift ban; disposition of gifts. A member, officer, or employee does not violate this Act if the member, officer, or employee promptly takes reasonable action to return the prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

(Source: P.A. 93-617, eff. 12-9-03.)

GIFT BAN; FURTHER RESTRICTIONS

(5 ILCS 430/10-40)

Sec. 10-40. Gift ban; further restrictions. A State agency may adopt or maintain policies that are more restrictive than those set forth in this Article and may continue to follow any existing policies, statutes, or regulations that are more restrictive or are in addition to those set forth in this Article.

(Source: P.A. 93-617, eff. 12-9-03.)

ARTICLE 15
WHISTLE BLOWER PROTECTION
5 ILCS 430/

DEFINITIONS

(5 ILCS 430/15-5)

Sec. 15-5. Definitions. In this Article:

"Public body" means (1) any officer, member, or State agency; (2) the federal government; (3) any local law enforcement agency or prosecutorial office; (4) any federal or State judiciary, grand or petit jury, law enforcement agency, or prosecutorial office; and (5) any officer, employee, department, agency, or other division of any of the foregoing.

"Supervisor" means an officer, a member, or a State employee who has the authority to direct and control the work performance of a State employee or who has authority to take corrective action regarding any violation of a law, rule, or regulation of which the State employee complains.

"Retaliatory action" means the reprimand, discharge, suspension, demotion, or denial of promotion or transfer of any State employee in the terms and conditions of employment, and that is taken in retaliation for a State employee's involvement in protected activity, as set forth in Section 15-10.

(Source: P.A. 93-615, eff. 11-19-03.)

PROTECTED ACTIVITY

(5 ILCS 430/15-10)

Sec. 15-10. Protected activity. An officer, a member, a State employee, or a State agency shall not take any retaliatory action against a State employee because the State employee does any of the following:

(1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation.

(2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency, or other State employee.

(3) Assists or participates in a proceeding to enforce the provisions of this Act.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

BURDEN OF PROOF

(5 ILCS 430/15-20)

Sec. 15-20. Burden of proof. A violation of this Article may be established only upon a finding that (i) the State employee engaged in conduct described in Section 15-10 and (ii) that conduct was a contributing factor in the retaliatory action alleged by the State employee. It is not a violation, however, if it is demonstrated by clear and convincing evidence that the officer, member, other State employee, or State agency would have taken the same unfavorable personnel action in the absence of that conduct.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

REMEDIES

(5 ILCS 430/15-25)

Sec. 15-25. Remedies. The State employee may be awarded all remedies necessary to make the State employee whole and to prevent future violations of this Article. Remedies imposed by the court may include, but are not limited to, all of the following:

- (1) reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position;
- (2) 2 times the amount of back pay;
- (3) interest on the back pay;
- (4) the reinstatement of full fringe benefits and seniority rights; and
- (5) the payment of reasonable costs and attorneys' fees.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

PREEMPTION

(5 ILCS 430/15-35)

Sec. 15-35. Preemption. Nothing in this Article shall be deemed to diminish the rights, privileges, or remedies of a State employee under any other federal or State law, rule, or regulation or under any collective bargaining agreement or employment contract.

(Source: P.A. 93-615, eff. 11-19-03.)

POSTING

(5 ILCS 430/15-40)

Sec. 15-40. Posting. All officers, members, and State agencies shall conspicuously display notices of State employee protection under this Act.

(Source: P.A. 93-617, eff. 12-9-03.)

ARTICLE 20 EXECUTIVE ETHICS COMMISSION AND EXECUTIVE INSPECTORS GENERAL 5 ILCS 430/

EXECUTIVE ETHICS COMMISSION

(5 ILCS 430/20-5)

Sec. 20-5. Executive Ethics Commission.

(a) The Executive Ethics Commission is created.

(b) The Executive Ethics Commission shall consist of 9 commissioners. The Governor shall appoint 5 commissioners, and the Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint one commissioner. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of commissioner, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of commissioner shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate. No more than 5 commissioners may be of the same political party.

The terms of the initial commissioners shall commence upon qualification. Four initial appointees of the Governor, as designated by the Governor, shall serve terms running through June 30, 2007. One initial appointee of the Governor, as designated by the Governor, and the initial appointees of the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve terms running through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and shall appoint commissioners from the general public. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is related to the appointing authority, or (iv) is a State officer or employee.

(d) The Executive Ethics Commission shall have jurisdiction over all officers and employees of State agencies other than the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, the legislative support services agencies, and the Office of the Auditor General. The jurisdiction of the Commission is limited to matters arising under this Act.

(e) The Executive Ethics Commission must meet, either in person or by other technological means, at least monthly and as often as necessary. At the first meeting of the Executive Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive compensation in an amount equal to the compensation of members of the State Board of Elections and may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner or employee of the Executive Ethics Commission may during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization;

or

(4) actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Executive Ethics Commission shall appoint an Executive Director. The compensation of the Executive Director shall be as determined by the Commission or by the Compensation Review Board, whichever amount is higher. The Executive Director of the Executive Ethics Commission may employ and determine the compensation of staff, as appropriations permit.

(Source: P.A. 93-617, eff. 12-9-03.)

OFFICES OF EXECUTIVE INSPECTORS GENERAL

(5 ILCS 430/20-10)

Sec. 20-10. Offices of Executive Inspectors General.

(a) Five independent Offices of the Executive Inspector General are created, one each for the Governor, the Attorney General, the Secretary of State, the Comptroller, and the

Treasurer. Each Office shall be under the direction and supervision of an Executive Inspector General and shall be a fully independent office with separate appropriations.

(b) The Governor, Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint an Executive Inspector General, without regard to political affiliation and solely on the basis of integrity and demonstrated ability. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of Executive Inspector General, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of Executive Inspector General shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate.

Nothing in this Article precludes the appointment by the Governor, Attorney General, Secretary of State, Comptroller, or Treasurer of any other inspector general required or permitted by law. The Governor, Attorney General, Secretary of State, Comptroller, and Treasurer each may appoint an existing inspector general as the Executive Inspector General required by this Article, provided that such an inspector general is not prohibited by law, rule, jurisdiction, qualification, or interest from serving as the Executive Inspector General required by this Article. An appointing authority may not appoint a relative as an Executive Inspector General.

Each Executive Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another State, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education; and (3) has 5 or more years of cumulative service (A) with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (B) as a federal, State, or local prosecutor; (C) as a senior manager or executive of a federal, State, or local agency; (D) as a member, an officer, or a State or federal judge; or (E) representing any combination of (A) through (D).

The term of each initial Executive Inspector General shall commence upon qualification and shall run through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial term, each Executive Inspector General shall serve for 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. An Executive Inspector General may be reappointed to one or more subsequent terms.

A vacancy occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the Executive Inspector General whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The Executive Inspector General appointed by the Attorney General shall have jurisdiction over the Attorney General and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Attorney General. The Executive Inspector General appointed by the Secretary of State shall have jurisdiction over the Secretary of State and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Secretary of State. The Executive Inspector General appointed by the Comptroller shall have jurisdiction over the Comptroller and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Comptroller. The Executive Inspector General appointed by the Treasurer

shall have jurisdiction over the Treasurer and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Treasurer. The Executive Inspector General appointed by the Governor shall have jurisdiction over the Governor, the Lieutenant Governor, and all officers and employees of, and vendors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

The jurisdiction of each Executive Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of this Act or violations of other related laws and rules.

(d) The minimum compensation for each Executive Inspector General shall be determined by the Executive Ethics Commission. The actual compensation for each Executive Inspector General shall be determined by the appointing executive branch constitutional officer and must be at or above the minimum compensation level set by the Executive Ethics Commission. Subject to Section 20-45 of this Act, each Executive Inspector General has full authority to organize his or her Office of the Executive Inspector General, including the employment and determination of the compensation of staff, such as deputies, assistants, and other employees, as appropriations permit. A separate appropriation shall be made for each Office of Executive Inspector General.

(e) No Executive Inspector General or employee of the Office of the Executive Inspector General may, during his or her term of appointment or employment:

- (1) become a candidate for any elective office;
 - (2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;
 - (3) be actively involved in the affairs of any political party or political organization;
- or
- (4) actively participate in any campaign for any elective office.

In this subsection an appointed public office means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(e-1) No Executive Inspector General or employee of the Office of the Executive Inspector General may, for one year after the termination of his or her appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any elected public office; or
- (3) hold any appointed State, county, or local judicial office.

(e-2) The requirements of item (3) of subsection (e-1) may be waived by the Executive Ethics Commission.

(f) An Executive Inspector General may be removed only for cause and may be removed only by the appointing constitutional officer. At the time of the removal, the appointing constitutional officer must report to the Executive Ethics Commission the justification for the removal.

(Source: P.A. 93-617, eff. 12-9-03.)

DUTIES OF THE EXECUTIVE ETHICS COMMISSION

(5 ILCS 430/20-15)

Sec. 20-15. Duties of the Executive Ethics Commission. In addition to duties otherwise assigned by law, the Executive Ethics Commission shall have the following duties:

- (1) To promulgate rules governing the performance of its duties and the exercise of its powers and governing the investigations of the Executive Inspectors General. It is

declared to be in the public interest, safety, and welfare that the Commission adopt emergency rules under the Illinois Administrative Procedure Act to initially perform its duties under this subsection.

(2) To conduct administrative hearings and rule on matters brought before the Commission only upon the receipt of pleadings filed by an Executive Inspector General and not upon its own prerogative, but may appoint special Executive Inspectors General as provided in Section 20-21. Any other allegations of misconduct received by the Commission from a person other than an Executive Inspector General shall be referred to the Office of the appropriate Executive Inspector General.

(3) To prepare and publish manuals and guides and, working with the Office of the Attorney General, oversee training of employees under its jurisdiction that explains their duties.

(4) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.

(5) To submit reports as required by this Act.

(6) To the extent authorized by this Act, to make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this Act. The powers and duties of the Commission are limited to matters clearly within the purview of this Act.

(7) To issue subpoenas with respect to matters pending before the Commission, subject to the provisions of this Article and in the discretion of the Commission, to compel the attendance of witnesses for purposes of testimony and the production of documents and other items for inspection and copying.

(8) To appoint special Executive Inspectors General as provided in Section 20-21.

(Source: P.A. 93-617, eff. 12-9-03.)

DUTIES OF THE EXECUTIVE INSPECTORS GENERAL

(5 ILCS 430/20-20)

Sec. 20-20. Duties of the Executive Inspectors General. In addition to duties otherwise assigned by law, each Executive Inspector General shall have the following duties:

(1) To receive and investigate allegations of violations of this Act. The Executive Inspector General may receive information through the Office of any Executive Inspector General or through an ethics commission. An investigation may be conducted only in response to information reported to the Executive Inspector General as provided in this Section and not upon his or her own prerogative. Allegations may not be made anonymously. An investigation may not be initiated more than one year after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The Executive Inspector General shall have the discretion to determine the appropriate means of investigation as permitted by law.

(2) To request information relating to an investigation from any person when the Executive Inspector General deems that information necessary in conducting an investigation.

(3) To issue subpoenas to compel the attendance of witnesses for the purposes of testimony and production of documents and other items for inspection and copying and to make service of those subpoenas and subpoenas issued under item (7) of Section 20-15.

(4) To submit reports as required by this Act.

(5) To file pleadings in the name of the Executive Inspector General with the Executive Ethics Commission, through the Attorney General, as provided in this Article if the Attorney General finds that reasonable cause exists to believe that a violation has occurred.

(6) To assist and coordinate the ethics officers for State agencies under the jurisdiction of the Executive Inspector General and to work with those ethics officers.

(7) To participate in or conduct, when appropriate, multi-jurisdictional investigations.

(8) To request, as the Executive Inspector General deems appropriate, from ethics officers of State agencies under his or her jurisdiction, reports or information on (i) the content of a State agency's ethics training program and (ii) the percentage of new officers and employees who have completed ethics training.

(Source: P.A. 93-617, eff. 12-9-03.)

SPECIAL EXECUTIVE INSPECTORS GENERAL

(5 ILCS 430/20-21)

Sec. 20-21. Special Executive Inspectors General.

(a) The Executive Ethics Commission, on its own initiative and by majority vote, may appoint special Executive Inspectors General (i) to investigate alleged violations of this Act if an investigation by the Inspector General was not concluded within 6 months after its initiation, where the Commission finds that the Inspector General's reasons under Section 20-65 for failing to complete the investigation are insufficient and (ii) to accept referrals from the Commission of allegations made pursuant to this Act concerning an Executive Inspector General or employee of an Office of an Executive Inspector General and to investigate those allegations.

(b) A special Executive Inspector General must have the same qualifications as an Executive Inspector General appointed under Section 20-10.

(c) The Commission's appointment of a special Executive Inspector General must be in writing and must specify the duration and purpose of the appointment.

(d) A special Executive Inspector General shall have the same powers and duties with respect to the purpose of his or her appointment as an Executive Inspector General appointed under Section 20-10.

(e) A special Executive Inspector General shall report the findings of his or her investigation to the Commission.

(f) The Commission may report the findings of a special Executive Inspector General and its recommendations, if any, to the appointing authority of the appropriate Executive Inspector General.

(Source: P.A. 93-617, eff. 12-9-03.)

ETHICS OFFICERS

(5 ILCS 430/20-23)

Sec. 20-23. Ethics Officers. Each officer and the head of each State agency under the jurisdiction of the Executive Ethics Commission shall designate an Ethics Officer for the office or State agency. Ethics Officers shall:

(1) act as liaisons between the State agency and the appropriate Executive Inspector General and between the State agency and the Executive Ethics Commission;

(2) review statements of economic interest and disclosure forms of officers, senior employees, and contract monitors before they are filed with the Secretary of State; and

(3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon.

Such guidance shall be based, wherever possible, upon legal precedent in court decisions, opinions of the Attorney General, and the findings and opinions of the Executive Ethics Commission.

(Source: P.A. 93-617, eff. 12-9-03.)

ADMINISTRATIVE SUBPOENA; COMPLIANCE

(5 ILCS 430/20-35)

Sec. 20-35. Administrative subpoena; compliance. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

(Source: P.A. 93-617, eff. 12-9-03.)

COLLECTIVE BARGAINING AGREEMENTS

(5 ILCS 430/20-40)

Sec. 20-40. Collective bargaining agreements. Any investigation or inquiry by an Executive Inspector General or any agent or representative of an Executive Inspector General must be conducted with awareness of the provisions of a collective bargaining agreement that applies to the employees of the relevant State agency and with an awareness of the rights of the employees as set forth by State and federal law and applicable judicial decisions. Any recommendation for discipline or any action taken against any State employee pursuant to this Act must comply with the provisions of the collective bargaining agreement that applies to the State employee.

(Source: P.A. 93-617, eff. 12-9-03.)

STANDING; REPRESENTATION

(5 ILCS 430/20-45)

Sec. 20-45. Standing; representation.

(a) Only an Executive Inspector General may bring actions before the Executive Ethics Commission.

(b) The Attorney General shall represent an Executive Inspector General in all proceedings before the Commission. Whenever the Attorney General is sick or absent, or unable to attend, or is interested in any matter or proceeding under this Act, upon the filing of a petition under seal by any person with standing, the Supreme Court (or any other court of competent jurisdiction as designated and determined by rule of the Supreme Court) may appoint some competent attorney to prosecute or defend that matter or proceeding, and the attorney so appointed shall have the same power and authority in relation to that matter or proceeding as the Attorney General would have had if present and attending to the same.

(c) Attorneys representing an Inspector General in proceedings before the Executive Ethics Commission, except an attorney appointed under subsection (b), shall be appointed or retained by the Attorney General, shall be under the supervision, direction, and control of the Attorney General, and shall serve at the pleasure of the Attorney General. The compensation of any attorneys appointed or retained in accordance with this subsection or subsection (b) shall be paid by the appropriate Office of the Executive Inspector General.

(Source: P.A. 93-617, eff. 12-9-03.)

INVESTIGATION REPORTS; COMPLAINT PROCEDURE

(5 ILCS 430/20-50)

Sec. 20-50. Investigation reports; complaint procedure.

(a) If an Executive Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that a violation has occurred, then the Executive Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation, if appropriate.

(b) The summary report of the investigation shall include the following:

(1) A description of any allegations or other information received by the Executive Inspector General pertinent to the investigation.

(2) A description of any alleged misconduct discovered in the course of the investigation.

(3) Recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.

(4) Other information the Executive Inspector General deems relevant to the investigation or resulting recommendations.

(c) Not less than 30 days after delivery of the summary report of an investigation under subsection (a), if the Executive Inspector General desires to file a petition for leave to file a complaint, the Executive Inspector General shall notify the Commission and the Attorney General. If the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Executive Inspector General, represented by the Attorney General, may file with the Executive Ethics Commission a petition for leave to file a complaint. The petition shall set forth the alleged violation and the grounds that exist to support the petition. The petition for leave to file a complaint must be filed with the Commission within 18 months after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. If a petition for leave to file a complaint is not filed with the Commission within 6 months after notice by the Inspector General to the Commission and the Attorney General, then the Commission may set a meeting of the Commission at which the Attorney General shall appear and provide a status report to the Commission.

(d) A copy of the petition must be served on all respondents named in the complaint and on each respondent's ultimate jurisdictional authority in the same manner as process is served under the Code of Civil Procedure.

(e) A respondent may file objections to the petition for leave to file a complaint within 30 days after notice of the petition has been served on the respondent.

(f) The Commission shall meet, either in person or by telephone, in a closed session to review the sufficiency of the complaint. If the Commission finds that complaint is sufficient, the Commission shall grant the petition for leave to file the complaint. The Commission shall issue notice to the Executive Inspector General and all respondents of the Commission's ruling on the sufficiency of the complaint. If the complaint is deemed to sufficiently allege a violation of this Act, then the Commission shall notify the parties and shall include a hearing date scheduled within 4 weeks after the date of the notice, unless all of the parties consent to a later date. If the complaint is deemed not to sufficiently allege a violation, then the Commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint.

(g) On the scheduled date the Commission shall conduct a closed meeting, either in person or, if the parties consent, by telephone, on the complaint and allow all parties the opportunity to present testimony and evidence. All such proceedings shall be transcribed.

(h) Within an appropriate time limit set by rules of the Executive Ethics Commission, the Commission shall (i) dismiss the complaint or (ii) issue a recommendation of discipline to the

respondent and the respondent's ultimate jurisdictional authority or impose an administrative fine upon the respondent, or both.

(i) The proceedings on any complaint filed with the Commission shall be conducted pursuant to rules promulgated by the Commission.

(j) The Commission may designate hearing officers to conduct proceedings as determined by rule of the Commission.

(k) In all proceedings before the Commission, the standard of proof is by a preponderance of the evidence.

(l) When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation and to the Commission of the Inspector General's decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant.

(Source: P.A. 93-617, eff. 12-9-03.)

DECISIONS; RECOMMENDATIONS

(5 ILCS 430/20-55)

Sec. 20-55. Decisions; recommendations.

(a) All decisions of the Executive Ethics Commission must include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendation of discipline, and the reasoning for that decision. All decisions of the Commission shall be delivered to the head of the appropriate State agency, the appropriate ultimate jurisdictional authority, and the appropriate Executive Inspector General. The Executive Ethics Commission shall promulgate rules for the decision and recommendation process.

(b) If the Executive Ethics Commission issues a recommendation of discipline to an agency head or ultimate jurisdictional authority, that agency head or ultimate jurisdictional authority must respond to that recommendation in 30 days with a written response to the Executive Ethics Commission. This response must include any disciplinary action the agency head or ultimate jurisdictional authority has taken with respect to the officer or employee in question. If the agency head or ultimate jurisdictional authority did not take any disciplinary action, or took a different disciplinary action than that recommended by the Executive Ethics Commission, the agency head or ultimate jurisdictional authority must describe the different action and explain the reasons for the different action in the written response. This response must be served upon the Executive Ethics Commission and the appropriate Executive Inspector General within the 30-day period and is not exempt from the provisions of the Freedom of Information Act.

(Source: P.A. 93-617, eff. 12-9-03.)

APPEALS

(5 ILCS 430/20-60)

Sec. 20-60. Appeals. A decision of the Executive Ethics Commission to impose a fine is subject to judicial review under the Administrative Review Law. All other decisions by the Executive Ethics Commission are final and not subject to review either administratively or judicially.

(Source: P.A. 93-617, eff. 12-9-03.)

INVESTIGATIONS NOT CONCLUDED WITHIN 6 MONTHS

(5 ILCS 430/20-65)

Sec. 20-65. Investigations not concluded within 6 months. If any investigation is not concluded within 6 months after its initiation, the appropriate Executive Inspector General shall

notify the Executive Ethics Commission and appropriate ultimate jurisdictional authority of the general nature of the allegation or information giving rise to the investigation and the reasons for failure to complete the investigation within 6 months.

(Source: P.A. 93-617, eff. 12-9-03.)

COOPERATION IN INVESTIGATIONS

(5 ILCS 430/20-70)

Sec. 20-70. Cooperation in investigations. It is the duty of every officer and employee under the jurisdiction of an Executive Inspector General, including any inspector general serving in any State agency under the jurisdiction of that Executive Inspector General, to cooperate with the Executive Inspector General in any investigation undertaken pursuant to this Act. Failure to cooperate with an investigation of the Executive Inspector General is grounds for disciplinary action, including dismissal. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

(Source: P.A. 93-617, eff. 12-9-03.)

REFERRALS OF INVESTIGATIONS

(5 ILCS 430/20-80)

Sec. 20-80. Referrals of investigations. If an Executive Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Executive Ethics Commission, that Executive Inspector General shall refer the reported allegations to the appropriate Inspector General, appropriate ethics commission, or other appropriate body. If an Executive Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Executive Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority.

(Source: P.A. 93-617, eff. 12-9-03.)

QUARTERLY REPORTS BY EXECUTIVE INSPECTOR GENERAL

(5 ILCS 430/20-85)

Sec. 20-85. Quarterly reports by Executive Inspector General. Each Executive Inspector General shall submit quarterly reports to the appropriate executive branch constitutional officer and the Executive Ethics Commission, on dates determined by the Executive Ethics Commission, indicating:

- (1) the number of allegations received since the date of the last report;
- (2) the number of investigations initiated since the date of the last report;
- (3) the number of investigations concluded since the date of the last report;
- (4) the number of investigations pending as of the reporting date;
- (5) the number of complaints forwarded to the Attorney General since the date of the last report; and
- (6) the number of actions filed with the Executive Ethics Commission since the date of the last report and the number of actions pending before the Executive Ethics Commission as of the reporting date.

(Source: P.A. 93-617, eff. 12-9-03.)

QUARTERLY REPORTS BY THE ATTORNEY GENERAL

(5 ILCS 430/20-86)

Sec. 20-86. Quarterly reports by the Attorney General. The Attorney General shall submit quarterly reports to the Executive Ethics Commission, on dates determined by the Executive Ethics Commission, indicating:

- (1) the number of complaints received from each of the Executive Inspectors General since the date of the last report;

(2) the number of complaints for which the Attorney General has determined reasonable cause exists to believe that a violation has occurred since the date of the last report; and

(3) the number of complaints still under review by the Attorney General.

(Source: P.A. 93-617, eff. 12-9-03.)

CONFIDENTIALITY

(5 ILCS 430/20-90)

Sec. 20-90. Confidentiality.

(a) The identity of any individual providing information or reporting any possible or alleged misconduct to an Executive Inspector General or the Executive Ethics Commission shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted by this subsection does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.

(b) Subject to the provisions of Section 20-50(c), commissioners, employees, and agents of the Executive Ethics Commission, the Executive Inspectors General, and employees and agents of each Office of an Executive Inspector General shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.

(Source: P.A. 93-617, eff. 12-9-03.)

EXEMPTIONS

(5 ILCS 430/20-95)

Sec. 20-95. Exemptions.

(a) Documents generated by an ethics officer under this Act, except Section 5-50, are exempt from the provisions of the Freedom of Information Act.

(b) Any allegations and related documents submitted to an Executive Inspector General and any pleadings and related documents brought before the Executive Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Executive Ethics Commission does not make a finding of a violation of this Act. If the Executive Ethics Commission finds that a violation has occurred, the entire record of proceedings before the Commission, the decision and recommendation, and the mandatory report from the agency head or ultimate jurisdictional authority to the Executive Ethics Commission are not exempt from the provisions of the Freedom of Information Act but information contained therein that is otherwise exempt from the Freedom of Information Act must be redacted before disclosure as provided in Section 8 of the Freedom of Information Act.

(c) Meetings of the Commission under Sections 20-5 and 20-15 of this Act are exempt from the provisions of the Open Meetings Act.

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of an Executive Inspector General, other than quarterly reports, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to the appropriate law enforcement authority if the matter is referred pursuant to this Act, (ii) to the ultimate jurisdictional authority, (iii) to the Executive Ethics Commission; or (iv) to another Inspector General appointed pursuant to this Act.

(Source: P.A. 93-617, eff. 12-9-03.)

ARTICLE 25
LEGISLATIVE ETHICS COMMISSION AND
LEGISLATIVE INSPECTOR GENERAL
5 ILCS 430/

LEGISLATIVE ETHICS COMMISSION

(5 ILCS 430/25-5)

Sec. 25-5. Legislative Ethics Commission.

(a) The Legislative Ethics Commission is created.

(b) The Legislative Ethics Commission shall consist of 8 commissioners appointed 2 each by the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

The terms of the initial commissioners shall commence upon qualification. Each appointing authority shall designate one appointee who shall serve for a 2-year term running through June 30, 2005. Each appointing authority shall designate one appointee who shall serve for a 4-year term running through June 30, 2007. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and may appoint commissioners who are members of the General Assembly as well as commissioners from the general public. A commissioner who is a member of the General Assembly must recuse himself or herself from participating in any matter relating to any investigation or proceeding in which he or she is the subject. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is a relative of the appointing authority, or (iv) is a State officer or employee other than a member of the General Assembly.

(d) The Legislative Ethics Commission shall have jurisdiction over members of the General Assembly and all State employees whose ultimate jurisdictional authority is (i) a legislative leader, (ii) the Senate Operations Commission, or (iii) the Joint Committee on Legislative Support Services. The jurisdiction of the Commission is limited to matters arising under this Act.

(e) The Legislative Ethics Commission must meet, either in person or by other technological means, monthly or as often as necessary. At the first meeting of the Legislative Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive no compensation but may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner, other than a commissioner who is a member of the General Assembly, or employee of the Legislative Ethics Commission may during his or her term of appointment or employment:

- (1) become a candidate for any elective office;
 - (2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;
 - (3) be actively involved in the affairs of any political party or political organization;
- or
- (4) actively participate in any campaign for any elective office.
 - (g) An appointing authority may remove a commissioner only for cause.

(h) The Legislative Ethics Commission shall appoint an Executive Director. The compensation of the Executive Director shall be as determined by the Commission or by the Compensation Review Board, whichever amount is higher. The Executive Director of the Legislative Ethics Commission may employ and determine the compensation of staff, as appropriations permit.

(Source: P.A. 93-617, eff. 12-9-03.)

OFFICES OF LEGISLATIVE INSPECTOR GENERAL

(5 ILCS 430/25-10)

Sec. 25-10. Office of Legislative Inspector General.

(a) The independent Office of the Legislative Inspector General is created. The Office shall be under the direction and supervision of the Legislative Inspector General and shall be a fully independent office with its own appropriation.

(b) The Legislative Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability. The Legislative Ethics Commission shall diligently search out qualified candidates for Legislative Inspector General and shall make recommendations to the General Assembly.

The Legislative Inspector General shall be appointed by a joint resolution of the Senate and the House of Representatives, which may specify the date on which the appointment takes effect. A joint resolution, or other document as may be specified by the Joint Rules of the General Assembly, appointing the Legislative Inspector General must be certified by the Speaker of the House of Representatives and the President of the Senate as having been adopted by the affirmative vote of three-fifths of the members elected to each house, respectively, and be filed with the Secretary of State. The appointment of the Legislative Inspector General takes effect on the day the appointment is completed by the General Assembly, unless the appointment specifies a later date on which it is to become effective.

The Legislative Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another state, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education;

and

(3) has 5 or more years of cumulative service (A) with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (B) as a federal, State, or local prosecutor; (C) as a senior manager or executive of a federal, State, or local agency; (D) as a member, an officer, or a State or federal judge; or (E) representing any combination of (A) through (D).

The Legislative Inspector General may not be a relative of a commissioner.

The term of the initial Legislative Inspector General shall commence upon qualification and shall run through June 30, 2008.

After the initial term, the Legislative Inspector General shall serve for 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. The Legislative Inspector General may be reappointed to one or more subsequent terms.

A vacancy occurring other than at the end of a term shall be filled in the same manner as an appointment only for the balance of the term of the Legislative Inspector General whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The Legislative Inspector General shall have jurisdiction over the members of the General Assembly and all State employees whose ultimate jurisdictional authority is (i) a legislative leader, (ii) the Senate Operations Commission, or (iii) the Joint Committee on Legislative Support Services.

The jurisdiction of each Legislative Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of this Act or violations of other related laws and rules.

(d) The compensation of the Legislative Inspector General shall be the greater of an amount (i) determined by the Commission or (ii) by joint resolution of the General Assembly passed by a majority of members elected in each chamber. Subject to Section 25-45 of this Act, the Legislative Inspector General has full authority to organize the Office of the Legislative Inspector General, including the employment and determination of the compensation of staff, such as deputies, assistants, and other employees, as appropriations permit.

(e) No Legislative Inspector General or employee of the Office of the Legislative Inspector General may, during his or her term of appointment or employment:

- (1) become a candidate for any elective office;
 - (2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;
 - (3) be actively involved in the affairs of any political party or political organization;
- or
- (4) actively participate in any campaign for any elective office.

In this subsection an appointed public office means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(e-1) No Legislative Inspector General or employee of the Office of the Legislative Inspector General may, for one year after the termination of his or her appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any elected public office; or
- (3) hold any appointed State, county, or local judicial office.

(e-2) The requirements of item (3) of subsection (e-1) may be waived by the Legislative Ethics Commission.

(f) The Commission may remove the Legislative Inspector General only for cause. At the time of the removal, the Commission must report to the General Assembly the justification for the removal.

(Source: P.A. 93-617, eff. 12-9-03.)

DUTIES OF THE LEGISLATIVE ETHICS COMMISSION

(5 ILCS 430/25-15)

Sec. 25-15. Duties of the Legislative Ethics Commission. In addition to duties otherwise assigned by law, the Legislative Ethics Commission shall have the following duties:

- (1) To promulgate rules governing the performance of its duties and the exercise of its powers and governing the investigations of the Legislative Inspector General.
- (2) To conduct administrative hearings and rule on matters brought before the Commission only upon the receipt of pleadings filed by the Legislative Inspector General and not upon its own prerogative, but may appoint special Legislative Inspectors

General as provided in Section 25-21. Any other allegations of misconduct received by the Commission from a person other than the Legislative Inspector General shall be referred to the Office of the Legislative Inspector General.

(3) To prepare and publish manuals and guides and, working with the Office of the Attorney General, oversee training of employees under its jurisdiction that explains their duties.

(4) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.

(5) To submit reports as required by this Act.

(6) To the extent authorized by this Act, to make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this Act. The powers and duties of the Commission are limited to matters clearly within the purview of this Act.

(7) To issue subpoenas with respect to matters pending before the Commission, subject to the provisions of this Article and in the discretion of the Commission, to compel the attendance of witnesses for purposes of testimony and the production of documents and other items for inspection and copying.

(8) To appoint special Legislative Inspectors General as provided in Section 25-21.

(Source: P.A. 93-617, eff. 12-9-03.)

DUTIES OF THE LEGISLATIVE INSPECTOR GENERAL

(5 ILCS 430/25-20)

Sec. 25-20. Duties of the Legislative Inspector General. In addition to duties otherwise assigned by law, the Legislative Inspector General shall have the following duties:

(1) To receive and investigate allegations of violations of this Act. The Legislative Inspector General may receive information through the Office of the Legislative Inspector General or through an ethics commission. An investigation may be conducted only in response to information reported to the Legislative Inspector General as provided in this Section and not upon his or her own prerogative. Allegations may not be made anonymously. An investigation may not be initiated more than one year after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The Legislative Inspector General shall have the discretion to determine the appropriate means of investigation as permitted by law.

(2) To request information relating to an investigation from any person when the Legislative Inspector General deems that information necessary in conducting an investigation.

(3) To issue subpoenas, with the advance approval of the Commission, to compel the attendance of witnesses for the purposes of testimony and production of documents and other items for inspection and copying and to make service of those subpoenas and subpoenas issued under item (7) of Section 25-15.

(4) To submit reports as required by this Act.

(5) To file pleadings in the name of the Legislative Inspector General with the Legislative Ethics Commission, through the Attorney General, as provided in this Article if the Attorney General finds that reasonable cause exists to believe that a violation has occurred.

(6) To assist and coordinate the ethics officers for State agencies under the jurisdiction of the Legislative Inspector General and to work with those ethics officers.

(7) To participate in or conduct, when appropriate, multi-jurisdictional investigations.

(8) To request, as the Legislative Inspector General deems appropriate, from ethics officers of State agencies under his or her jurisdiction, reports or information on (i) the content of a State agency's ethics training program and (ii) the percentage of new officers and employees who have completed ethics training.

(Source: P.A. 93-617, eff. 12-9-03.)

SPECIAL LEGISLATIVE INSPECTORS GENERAL

(5 ILCS 430/25-21)

Sec. 25-21. Special Legislative Inspectors General.

(a) The Legislative Ethics Commission, on its own initiative and by majority vote, may appoint special Legislative Inspectors General (i) to investigate alleged violations of this Act, if an investigation by the Inspector General was not concluded within 6 months after its initiation, where the Commission finds that the Inspector General's reasons under Section 25-65 for failing to complete the investigation are insufficient and (ii) to accept referrals from the Commission of allegations made pursuant to this Act concerning the Legislative Inspector General or an employee of the Office of the Legislative Inspector General and to investigate those allegations.

(b) A special Legislative Inspector General must have the same qualifications as the Legislative Inspector General appointed under Section 25-10.

(c) The Commission's appointment of a special Legislative Inspector General must be in writing and must specify the duration and purpose of the appointment.

(d) A special Legislative Inspector General shall have the same powers and duties with respect to the purpose of his or her appointment as the Legislative Inspector General appointed under Section 25-10.

(e) A special Legislative Inspector General shall report the findings of his or her investigation to the Commission.

(f) The Commission may report the findings of a special Legislative Inspector General and its recommendations, if any, to the General Assembly.

(Source: P.A. 93-617, eff. 12-9-03.)

ETHICS OFFICERS

(5 ILCS 430/25-23)

Sec. 25-23. Ethics Officers. The President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives shall each appoint an ethics officer for the members and employees of his or her legislative caucus. No later than January 1, 2004, the head of each State agency under the jurisdiction of the Legislative Ethics Commission, other than the General Assembly, shall designate an ethics officer for the State agency. Ethics Officers shall:

(1) act as liaisons between the State agency and the Legislative Inspector General and between the State agency and the Legislative Ethics Commission;

(2) review statements of economic interest and disclosure forms of officers, senior employees, and contract monitors before they are filed with the Secretary of State; and

(3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, wherever possible, upon legal precedent in court decisions, opinions of the Attorney General, and the findings and opinions of the Legislative Ethics Commission.

(Source: P.A. 93-617, eff. 12-9-03.)

ADMINISTRATIVE SUBPOENA; COMPLIANCE

(5 ILCS 430/25-35)

Sec. 25-35. Administrative subpoena; compliance. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

(Source: P.A. 93-617, eff. 12-9-03.)

STANDING; REPRESENTATION

(5 ILCS 430/25-45)

Sec. 25-45. Standing; representation.

(a) Only the Legislative Inspector General may bring actions before the Legislative Ethics Commission.

(b) The Attorney General shall represent the Legislative Inspector General in all proceedings before the Commission. Whenever the Attorney General is sick or absent, or unable to attend, or is interested in any matter or proceeding under this Act, upon the filing of a petition under seal by any person with standing, the Supreme Court (or any other court of competent jurisdiction as designated and determined by rule of the Supreme Court) may appoint some competent attorney to prosecute or defend that matter or proceeding, and the attorney so appointed shall have the same power and authority in relation to that matter or proceeding as the Attorney General would have had if present and attending to the same.

(c) Attorneys representing an Inspector General in proceedings before the Legislative Ethics Commission, except an attorney appointed under subsection (b), shall be appointed or retained by the Attorney General, shall be under the supervision, direction, and control of the Attorney General, and shall serve at the pleasure of the Attorney General. The compensation of any attorneys appointed or retained in accordance with this subsection or subsection (b) shall be paid by the Office of the Legislative Inspector General.

(Source: P.A. 93-617, eff. 12-9-03.)

INVESTIGATION REPORTS; COMPLAINT PROCEDURE

(5 ILCS 430/25-50)

Sec. 25-50. Investigation reports; complaint procedure.

(a) If the Legislative Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that a violation has occurred, then the Legislative Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation, if appropriate.

(b) The summary report of the investigation shall include the following:

(1) A description of any allegations or other information received by the Legislative Inspector General pertinent to the investigation.

(2) A description of any alleged misconduct discovered in the course of the investigation.

(3) Recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.

(4) Other information the Legislative Inspector General deems relevant to the investigation or resulting recommendations.

(c) Not less than 30 days after delivery of the summary report of an investigation under subsection (a), if the Legislative Inspector General desires to file a petition for leave to file a complaint, the Legislative Inspector General shall notify the Commission and the Attorney

General. If the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Legislative Inspector General, represented by the Attorney General, may file with the Legislative Ethics Commission a petition for leave to file a complaint. The petition shall set forth the alleged violation and the grounds that exist to support the petition. The petition for leave to file a complaint must be filed with the Commission within 18 months after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. If a petition for leave to file a complaint is not filed with the Commission within 6 months after notice by the Inspector General to the Commission and the Attorney General, then the Commission may set a meeting of the Commission at which the Attorney General shall appear and provide a status report to the Commission.

(d) A copy of the petition must be served on all respondents named in the complaint and on each respondent's ultimate jurisdictional authority in the same manner as process is served under the Code of Civil Procedure.

(e) A respondent may file objections to the petition for leave to file a complaint within 30 days after notice of the petition has been served on the respondent.

(f) The Commission shall meet, either in person or by telephone, in a closed session to review the sufficiency of the complaint. If the Commission finds that complaint is sufficient, the Commission shall grant the petition for leave to file the complaint. The Commission shall issue notice to the Legislative Inspector General and all respondents of the Commission's ruling on the sufficiency of the complaint. If the complaint is deemed to sufficiently allege a violation of this Act, then the Commission shall notify the parties and shall include a hearing date scheduled within 4 weeks after the date of the notice, unless all of the parties consent to a later date. If the complaint is deemed not to sufficiently allege a violation, then the Commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint.

(g) On the scheduled date the Commission shall conduct a closed meeting, either in person or, if the parties consent, by telephone, on the complaint and allow all parties the opportunity to present testimony and evidence. All such proceedings shall be transcribed.

(h) Within an appropriate time limit set by rules of the Legislative Ethics Commission, the Commission shall (i) dismiss the complaint or (ii) issue a recommendation of discipline to the respondent and the respondent's ultimate jurisdictional authority or impose an administrative fine upon the respondent, or both.

(i) The proceedings on any complaint filed with the Commission shall be conducted pursuant to rules promulgated by the Commission.

(j) The Commission may designate hearing officers to conduct proceedings as determined by rule of the Commission.

(k) In all proceedings before the Commission, the standard of proof is by a preponderance of the evidence.

(l) When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation and to the Commission of the Inspector General's decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant.

(Source: P.A. 93-617, eff. 12-9-03.)

DECISIONS; RECOMMENDATIONS

(5 ILCS 430/25-55)

Sec. 25-55. Decisions; recommendations.

(a) All decisions of the Legislative Ethics Commission must include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendation of discipline, and the reasoning for that decision. All decisions of the Commission shall be delivered to the head of the appropriate State agency, the appropriate ultimate jurisdictional authority, and the Legislative Inspector General. The Legislative Ethics Commission shall promulgate rules for the decision and recommendation process.

(b) If the Legislative Ethics Commission issues a recommendation of discipline to an agency head or ultimate jurisdictional authority, that agency head or ultimate jurisdictional authority must respond to that recommendation in 30 days with a written response to the Legislative Ethics Commission. This response must include any disciplinary action the agency head or ultimate jurisdictional authority has taken with respect to the officer or employee in question. If the agency head or ultimate jurisdictional authority did not take any disciplinary action, or took a different disciplinary action than that recommended by the Legislative Ethics Commission, the agency head or ultimate jurisdictional authority must describe the different action and explain the reasons for the different action in the written response. This response must be served upon the Legislative Ethics Commission and the Legislative Inspector General within the 30-day period and is not exempt from the provisions of the Freedom of Information Act.

(Source: P.A. 93-617, eff. 12-9-03.)

APPEALS

(5 ILCS 430/25-60)

Sec. 25-60. Appeals. A decision of the Legislative Ethics Commission to impose a fine is subject to judicial review under the Administrative Review Law. All other decisions by the Legislative Ethics Commission are final and not subject to review either administratively or judicially.

(Source: P.A. 93-617, eff. 12-9-03.)

INVESTIGATIONS NOT CONCLUDED WITHIN 6 MONTHS

(5 ILCS 430/25-65)

Sec. 25-65. Investigations not concluded within 6 months. If any investigation is not concluded within 6 months after its initiation, the Legislative Inspector General shall notify the Legislative Ethics Commission and appropriate ultimate jurisdictional authority of the general nature of the allegation or information giving rise to the investigation and the reasons for failure to complete the investigation within 6 months.

(Source: P.A. 93-617, eff. 12-9-03.)

COOPERATION IN INVESTIGATIONS

(5 ILCS 430/25-70)

Sec. 25-70. Cooperation in investigations. It is the duty of every officer and employee under the jurisdiction of the Legislative Inspector General, including any inspector general serving in any State agency under the jurisdiction of the Legislative Inspector General, to cooperate with the Legislative Inspector General in any investigation undertaken pursuant to this Act. Failure to cooperate with an investigation of the Legislative Inspector General is grounds for disciplinary action, including dismissal. Nothing in this Section limits or alters a person's existing rights or privileges under State or federal law.

(Source: P.A. 93-617, eff. 12-9-03.)

REFERRALS OF INVESTIGATIONS

(5 ILCS 430/25-80)

Sec. 25-80. Referrals of investigations. If the Legislative Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Legislative Ethics Commission, the Legislative Inspector General shall refer the reported allegations to the appropriate ethics commission or other appropriate body. If the Legislative Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Legislative Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority.

(Source: P.A. 93-617, eff. 12-9-03.)

QUARTERLY REPORTS BY THE LEGISLATIVE INSPECTOR GENERAL

(5 ILCS 430/25-85)

Sec. 25-85. Quarterly reports by the Legislative Inspector General. The Legislative Inspector General shall submit quarterly reports to the General Assembly and the Legislative Ethics Commission, on dates determined by the Legislative Ethics Commission, indicating:

- (1) the number of allegations received since the date of the last report;
- (2) the number of investigations initiated since the date of the last report;
- (3) the number of investigations concluded since the date of the last report;
- (4) the number of investigations pending as of the reporting date;
- (5) the number of complaints forwarded to the Attorney General since the date of the last report; and
- (6) the number of actions filed with the Legislative Ethics Commission since the date of the last report and the number of actions pending before the Legislative Ethics Commission as of the reporting date.

(Source: P.A. 93-617, eff. 12-9-03.)

QUARTERLY REPORTS BY THE ATTORNEY GENERAL

(5 ILCS 430/25-86)

Sec. 25-86. Quarterly reports by the Attorney General. The Attorney General shall submit quarterly reports to the Legislative Ethics Commission, on dates determined by the Legislative Ethics Commission, indicating:

- (1) the number of complaints received from the Legislative Inspector General since the date of the last report;
- (2) the number of complaints for which the Attorney General has determined reasonable cause exists to believe that a violation has occurred since the date of the last report; and
- (3) the number of complaints still under review by the Attorney General.

(Source: P.A. 93-617, eff. 12-9-03.)

CONFIDENTIALITY

(5 ILCS 430/25-90)

Sec. 25-90. Confidentiality.

(a) The identity of any individual providing information or reporting any possible or alleged misconduct to the Legislative Inspector General or the Legislative Ethics Commission shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted by this subsection does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.

(b) Subject to the provisions of Section 25-50(c), commissioners, employees, and agents of the Legislative Ethics Commission, the Legislative Inspector General, and employees and agents of the Office of the Legislative Inspector General shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.

(Source: P.A. 93-617, eff. 12-9-03.)

EXEMPTIONS

(5 ILCS 430/25-95)

Sec. 25-95. Exemptions.

(a) Documents generated by an ethics officer under this Act, except Section 5-50, are exempt from the provisions of the Freedom of Information Act.

(b) Any allegations and related documents submitted to the Legislative Inspector General and any pleadings and related documents brought before the Legislative Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Legislative Ethics Commission does not make a finding of a violation of this Act. If the Legislative Ethics Commission finds that a violation has occurred, the entire record of proceedings before the Commission, the decision and recommendation, and the mandatory report from the agency head or ultimate jurisdictional authority to the Legislative Ethics Commission are not exempt from the provisions of the Freedom of Information Act but information contained therein that is exempt from the Freedom of Information Act must be redacted before disclosure as provided in Section 8 of the Freedom of Information Act.

(c) Meetings of the Commission under Sections 25-5 and 25-15 of this Act are exempt from the provisions of the Open Meetings Act.

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of the Legislative Inspector General, other than quarterly reports, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to the appropriate law enforcement authority if the matter is referred pursuant to this Act, (ii) to the ultimate jurisdictional authority, or (iii) to the Legislative Ethics Commission.

(Source: P.A. 93-617, eff. 12-9-03.)

ARTICLE 30 AUDITOR GENERAL 5 ILCS 430/

APPOINTMENT OF INSPECTOR GENERAL

(5 ILCS 430/30-5)

Sec. 30-5. Appointment of Inspector General.

(a) The Auditor General shall appoint an Inspector General (i) to investigate allegations of violations of Articles 5 and 10 by State officers and employees under his or her jurisdiction and (ii) to perform other duties and exercise other powers assigned to the Inspectors General by this or any other Act. The Inspector General shall be appointed within 6 months after the effective date of this Act.

(b) The Auditor General shall provide by rule for the operation of his or her Inspector General. It is declared to be in the public interest, safety, and welfare that the Auditor General adopt emergency rules under the Illinois Administrative Procedure Act to initially perform his or her duties under this subsection.

(c) The Auditor General may appoint an existing inspector general as the Inspector General required by this Article, provided that such an inspector general is not prohibited by law,

rule, jurisdiction, qualification, or interest from serving as the Inspector General required by this Article.

The Auditor General may not appoint a relative as the Inspector General required by this Article.

(Source: P.A. 93-617, eff. 12-9-03.)

ETHICS OFFICER

(5 ILCS 430/30-10)

Sec. 30-10. Ethics Officer. The Auditor General shall designate an Ethics Officer for the office of the Auditor General. The ethics officer shall:

(1) act as liaison between the Office of the Auditor General and the Inspector General appointed under this Article;

(2) review statements of economic interest and disclosure forms of officers, senior employees, and contract monitors before they are filed with the Secretary of State; and

(3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, whenever possible, upon legal precedent in court decisions and opinions of the Attorney General.

(Source: P.A. 93-617, eff. 12-9-03.)

ARTICLE 35 OTHER INSPECTORS GENERAL WITHIN THE EXECUTIVE BRANCH 5 ILCS 430/

APPOINTMENT OF INSPECTORS GENERAL

(5 ILCS 430/35-5)

Sec. 35-5. Appointment of Inspectors General. Nothing in this Act precludes the appointment by the Governor, the Lieutenant Governor, the Attorney General, the Secretary of State, the Comptroller, or the Treasurer of any inspector general required or permitted by law. Nothing in this Act precludes the Governor, the Attorney General, the Secretary of State, the Comptroller, or the Treasurer from appointing an existing inspector general under his or her jurisdiction to serve simultaneously as an Executive Inspector General. This Act shall be read consistently with all existing State statutes that create inspectors general under the jurisdiction of an executive branch constitutional officer.

(Source: P.A. 93-617, eff. 12-9-03.)

ARTICLE 50 PENALTIES 5 ILCS 430/

PENALTIES

(5 ILCS 430/50-5)

Sec. 50-5. Penalties.

(a) A person is guilty of a Class A misdemeanor if that person intentionally violates any provision of Section 5-15, 5-30, 5-40, or 5-45 or Article 15.

(b) A person who intentionally violates any provision of Section 5-20, 5-35, 5-50, or 5-55 is guilty of a business offense subject to a fine of at least \$1,001 and up to \$5,000.

(c) A person who intentionally violates any provision of Article 10 is guilty of a business offense and subject to a fine of at least \$1,001 and up to \$5,000.

(d) Any person who intentionally makes a false report alleging a violation of any provision of this Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor.

(e) An ethics commission may levy an administrative fine of up to \$5,000 against any person who violates this Act, who intentionally obstructs or interferes with an investigation conducted under this Act by an inspector general, or who intentionally makes a false, frivolous, or bad faith allegation.

(f) In addition to any other penalty that may apply, whether criminal or civil, a State employee who intentionally violates any provision of Section 5-15, 5-20, 5-30, 5-35, 5-40, or 5-50, Article 10, Article 15, or Section 20-90 or 25-90 is subject to discipline or discharge by the appropriate ultimate jurisdictional authority.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

ARTICLE 70 GOVERNMENTAL ENTITIES 5 ILCS 430/

ADOPTION BY GOVERNMENTAL ENTITIES

(5 ILCS 430/70-5)

Sec. 70-5. Adoption by governmental entities.

(a) Within 6 months after the effective date of this Act, each governmental entity shall adopt an ordinance or resolution that regulates, in a manner no less restrictive than Section 5-15 and Article 10 of this Act, (i) the political activities of officers and employees of the governmental entity and (ii) the soliciting and accepting of gifts by and the offering and making of gifts to officers and employees of the governmental entity.

(b) Within 3 months after the effective date of this amendatory Act of the 93rd General Assembly, the Attorney General shall develop model ordinances and resolutions for the purpose of this Article. The Attorney General shall advise governmental entities on their contents and adoption.

(c) As used in this Article, (i) an "officer" means an elected or appointed official; regardless of whether the official is compensated, and (ii) an "employee" means a full-time, part-time, or contractual employee.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

PENALTIES

(5 ILCS 430/70-10)

Sec. 70-10. Penalties. A governmental entity may provide in the ordinance or resolution required by this Article for penalties similar to those provided in this Act for similar conduct.

(Source: P.A. 93-615, eff. 11-19-03.)

HOME RULE PREEMPTION

(5 ILCS 430/70-15)

Sec. 70-15. Home rule preemption. This Article is a denial and limitation of home rule powers and functions in accordance with subsection (i) of Section 6 of Article VII of the Illinois Constitution. A home rule unit may not regulate the political activities of its officers and employees and the soliciting, offering, accepting, and making of gifts in a manner less restrictive than the provisions of Section 70-5.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

ARTICLE 90
AMENDATORY PROVISIONS
5 ILCS 430/

(5 ILCS 430/90-3)

Sec. 90-3. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-6)

Sec. 90-6. The State Employees Political Activity Act is repealed on the effective date of the State Officials and Employees Ethics Act.

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-7)

Sec. 90-7. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-10)

Sec. 90-10. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-11)

Sec. 90-11. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-12)

Sec. 90-12. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-15)

Sec. 90-15. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-20)

Sec. 90-20. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-25)

Sec. 90-25. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-30)

Sec. 90-30. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-35)

Sec. 90-35. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-37)

Sec. 90-37. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/90-40)

Sec. 90-40. (Amendatory provisions; text omitted).

(Source: P.A. 93-615, eff. 11-19-03.)

ARTICLE 99
MISCELLANEOUS PROVISIONS
5 ILCS 430/

SEVERABILITY

(5 ILCS 430/99-5)

Sec. 99-5. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

(Source: P.A. 93-615, eff. 11-19-03.)

(5 ILCS 430/99-10) (was Sec. 995 of PA 93-617)

(This Section was enacted as Section 995 of P.A. 93-617; it is being added to the State Officials and Employees Ethics Act, amended, and renumbered for codification purposes.)

Sec. 99-10. ~~995~~. Closed sessions; vote requirement. Public Act 93-617 ~~This Act~~ authorizes the ethics commissions of the executive branch and legislative branch to conduct closed sessions, hearings, and meetings in certain circumstances. In order to meet the requirements of subsection (c) of Section 5 of Article IV of the Illinois Constitution, the General Assembly determines that closed sessions, hearings, and meetings of the ethics commissions, including the ethics commission for the legislative branch, are required by the public interest. Thus, Public Act 93-617 was this Act is enacted by the affirmative vote of two-thirds of the members elected to each house of the General Assembly.

(P.A. 93-617, eff. 12-9-03; revised 1-10-04.)

EFFECTIVE DATE

(5 ILCS 430/99-99)

Sec. 99-99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 93-615, eff. 11-19-03.)

SUCCESSOR AGENCY ACT

5 ILCS 705/

ARTICLE 10

SHORT TITLE

(5 ILCS 705/10-1)

Sec. 10-1. Short title. This Article may be cited as the Successor Agency Act.

(Source: P.A. 89-214, eff. 8-4-95.)

DESIGNATION

(5 ILCS 705/10-5)

Sec. 10-5. Designation. Unless a successor agency is specified by law, whenever a State agency ceases operations, a successor agency shall be designated as follows:

(1) for executive branch agencies, the Governor shall designate a successor agency;

(2) for judicial branch agencies, the Supreme Court shall designate a successor agency; and

(3) for legislative branch agencies, the Joint Committee on Legislative Support Services shall designate a successor agency.

(Source: P.A. 89-214, eff. 8-4-95.)

PROPERTY DISPOSAL

(5 ILCS 705/10-10)

Sec. 10-10. Property disposal. Unless otherwise specified by law, a State agency that ceases operations, or the successor agency designated in the manner prescribed by law, shall dispose of the closed agency's records and assets as follows:

(1) Financial and other records shall be transferred to the successor agency or to the State Archives. The records shall be retained intact until after they have been audited by the Auditor General.

(2) All property, whether real or personal in nature, and including but not limited to all inventory and equipment, shall be transferred to the successor agency or to the Department of Central Management Services for disposition in the manner prescribed by law or applicable contract. Neither the successor agency nor the Department of Central Management Services, except as authorized in Section 10-15, shall have any financial responsibility to any vendor or other person making a claim relating to the inventory, property, or equipment so transferred.

(Source: P.A. 89-214, eff. 8-4-95.)

AUTHORITY OF SUCCESSOR AGENCY

(5 ILCS 705/10-15)

Sec. 10-15. Authority of successor agency. A successor agency designated in the manner prescribed by law shall act on behalf of the agency that has ceased operations and shall have the power and duty to receive and answer correspondence, pay claims due and owing to a Department of Central Management Services revolving fund from any remaining unexpired appropriation, refer unpaid vendors to the Court of Claims, and arrange for the orderly termination of any affairs of the agency that has ceased operations that remain unresolved at the date of closure.

(Source: P.A. 89-214, eff. 8-4-95.)

ARTICLE 99
EFFECTIVE DATE
5 ILCS 705/

EFFECTIVE DATE

(5 ILCS 705/99-5)

Sec. 99-5. Effective date. This Act takes effect upon becoming law.
(Source: P.A. 89-214, eff. 8-4-95.)

COMMEMORATIVE MEDALLIONS ACT

15 ILCS 555/

SHORT TITLE

(15 ILCS 555/1)

Sec. 1. Short title. This Act may be cited as the Commemorative Medallions Act.

(Source: P.A. 91-71, eff. 7-9-99.)

ISSUANCE OF COMMEMORATIVE MEDALLIONS

(15 ILCS 555/5)

Sec. 5. Issuance of commemorative medallions. The State Treasurer may issue medallions to commemorate popular contemporaneous events of Statewide interest.

The Treasurer shall select one or more vendors for the production, distribution, marketing, and sale of the medallions. The Treasurer shall require that the vendors share a percentage of the proceeds of the sale of the medallions with a not-for-profit corporation organized under the General Not For Profit Corporation Act of 1986 that is related to the public purpose for which the medallions were issued.

(Source: P.A. 91-71, eff. 7-9-99.)

SELECTION OF EVENTS TO BE COMMEMORATED

(15 ILCS 555/10)

Sec. 10. Selection of events to be commemorated. The General Assembly shall select the events to be commemorated by joint resolution adopted by the affirmative vote of at least three-fifths of the members elected to each house. The State Treasurer may recommend a limit of the number of series of medallions to be issued in a calendar year by giving notice of the recommended limitation to the General Assembly before December 1 of the preceding calendar year.

(Source: P.A. 91-71, eff. 7-9-99.)

RULES

(15 ILCS 555/15)

Sec. 15. Rules. The State Treasurer may promulgate rules to implement this Act.

(Source: P.A. 91-71, eff. 7-9-99.)

EFFECTIVE DATE

(15 ILCS 555/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 91-71, eff. 7-9-99.)

GENERAL ASSEMBLY OPERATIONS ACT

25 ILCS 10/10

GENERAL ASSEMBLY PRINTING; SESSION LAWS

(25 ILCS 10/10)

Sec. 10. General Assembly printing; session laws.

(a) Authority. Public printing for the use of either House of the General Assembly shall be subject to its control.

(b) Time of delivery. Daily calendars, journals, and other similar printing for which manuscript or copy is delivered to the Legislative Printing Unit by the clerical officer of either House shall be printed so as to permit delivery at any reasonable time required by the clerical officer. Any petition, bill, resolution, joint resolution, memorial, and similar manuscript or copy delivered to the Legislative Printing Unit by the clerical officer of either House shall be printed at any reasonable time required by that officer.

(c) Style. The manner, form, style, size, and arrangement of type used in printing the bills, resolutions, amendments, conference reports, and journals, including daily journals, of the General Assembly shall be as provided in the Rules of the General Assembly.

(d) Daily journal. The Clerk of the House of Representatives and the Secretary of the Senate shall each prepare and deliver to the Legislative Printing Unit, immediately after the close of each daily session, a printer's copy of the daily journal for their respective House.

(e) Daily and bound journals.

(1) Subscriptions. The Legislative Printing Unit shall have printed the number of copies of the daily journal as may be requested by the clerical officer of each House. The Secretary of the Senate and the Clerk of the House of Representatives shall furnish a copy of each daily journal of their respective House to those persons who apply therefor upon payment of a reasonable subscription fee established separately by the Secretary of the Senate and the Clerk of the House for their respective House. Each subscriber shall specify at the time he or she subscribes the address where he or she wishes the journals mailed. The daily journals shall be furnished free of charge on a pickup basis to State offices and to the public as long as the supply lasts. The Secretary of the Senate and the Clerk of the House shall determine the number of journals available for pickup at their respective offices.

(2) Other copies. After the General Assembly adjourns, the Clerk of the House and the Secretary of the Senate shall prepare and deliver to the Legislative Printing Unit a printer's copy of matter for the regular House and Senate journals, together with any matter, not previously printed in the daily journals, that is required by law, by order of either House, or by joint resolution to be printed in the journals. The Legislative Printing Unit shall have printed the number of copies of the bound journal as may be requested by the clerical officer of each House. A reasonable number of bound volumes of the journal of each House of the General Assembly shall be provided to State and local officers, boards, commissions, institutions, departments, agencies, and libraries requesting them through canvasses conducted separately by the Secretary of the Senate and the Clerk of the House. Reasonable fees established separately by the Secretary of the Senate and the Clerk of the House may be charged for bound volumes of the journal of each House of the General Assembly.

(f) Session laws. Immediately after the General Assembly adjourns, the Secretary of State shall prepare a printer's copy for the "Session Laws of Illinois" that shall set forth in full all Acts and joint resolutions passed by the General Assembly at the session just concluded and all executive orders of the Governor taking effect under Article V, Section 11 of the Constitution and the Executive Reorganization Implementation Act. The printer's copy shall be furnished and

delivered to the Secretary of State by the Enrolling and Engrossing Department of the 2 Houses. At the time an enrolled law is filed with the Secretary of State, whether before or after the conclusion of the session in which it was passed, it shall be assigned a Public Act number, the first part of which shall be the number of the General Assembly followed by a dash and then a number showing the order in which that law was filed with the Secretary of State. The title page of each volume of the session laws shall contain the following: "Printed by the authority of the General Assembly of the State of Illinois". The laws shall be arranged by the Secretary of State and printed in the chronological order of Public Act numbers. At the end of each Act the dates when the Act was passed by the General Assembly and when the Act was approved by the Governor shall be stated. Any Act becoming law without the approval of the Governor shall be marked at its end in the session laws by the printed certificate of the Secretary of State. Executive orders taking effect under Article V, Section 11 of the Constitution and the Executive Reorganization Implementation Act shall be printed in chronological order of executive order number and shall state at the end of each executive order the date it was transmitted to the General Assembly and the date it takes effect. In the case of an amendatory Act, the changes made by the amendatory Act shall be indicated in the session laws in the following manner: (i) all new matter shall be underscored; and (ii) all matter deleted by the amendatory Act shall be shown crossed with a line. The Secretary of State shall prepare and furnish a table of contents and an index to each volume of the session laws.

(g) Distribution. The bound volumes of the session laws of the General Assembly shall be made available to the following:

(1) one copy of each to each State officer, board, commission, institution, and department requesting a copy in accordance with a canvass conducted by the Secretary of State before the printing of the session laws except judges of the appellate courts and judges and associate judges of the circuit courts;

(2) 10 copies to the law library of the Supreme Court; one copy each to the law libraries of the appellate courts; and one copy to each of the county law libraries or, in those counties without county law libraries, one copy to the clerk of the circuit court;

(3) one copy of each to each county clerk;

(4) 10 copies of each to the library of the University of Illinois;

(5) 3 copies of each to the libraries of the University of Illinois at Chicago, Southern Illinois University at Carbondale, Southern Illinois University at Edwardsville, Northern Illinois University, Western Illinois University, Eastern Illinois University, Illinois State University, Chicago State University, Northeastern Illinois University, Chicago Kent College of Law, DePaul University, John Marshall Law School, Loyola University, Northwestern University, Roosevelt University, and the University of Chicago;

(6) a number of copies sufficient for exchange purposes to the Legislative Reference Bureau and the University of Illinois College of Law Library;

(7) a number of copies sufficient for public libraries in the State to the State Library; and

(8) the remainder shall be retained for distribution as the interests of the State may require to persons making application in writing or in person for the publication.

(h) Messages and reports. The following shall be printed in a quantity not to exceed the maximum stated in this subsection and bound and distributed at public expense:

(1) messages to the General Assembly by the Governor, 10,000 copies;

(2) the biennial report of the Lieutenant Governor, 1,000 copies;

(3) the biennial report of the Secretary of State, 3,000 copies;

(4) the biennial report of the State Comptroller, 5,000 copies;

(5) the biennial report of the State Treasurer, 3,000 copies;

(6) the annual report of the State Board of Education, 6,000 copies; and

(7) the biennial report and annual opinions of the Attorney General, 5,000 copies.

The reports of all other State officers, boards, commissions, institutions, and departments shall be printed, bound, and distributed at public expense in a number of copies determined from previous experience not to exceed the probable and reasonable demands of the State therefor. Any other report required by law to be made to the Governor shall, upon his or her order, be printed in the quantity ordered by the Governor, bound and distributed at public expense.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

GENERAL ASSEMBLY COMPENSATION ACT

25 ILCS 115/

OFFICE ALLOWANCE

(25 ILCS 115/4) (from Ch. 63, par. 15.1)

Sec. 4. Office allowance. Beginning July 1, 2001, each member of the House of Representatives is authorized to approve the expenditure of not more than \$61,000 per year and each member of the Senate is authorized to approve the expenditure of not more than \$73,000 per year to pay for "personal services", "contractual services", "commodities", "printing", "travel", "operation of automotive equipment", "telecommunications services", as defined in the State Finance Act, and the compensation of one or more legislative assistants authorized pursuant to this Section, in connection with his or her legislative duties and not in connection with any political campaign. On July 1, 2002 and on July 1 of each year thereafter, the amount authorized per year under this Section for each member of the Senate and each member of the House of Representatives shall be increased by a percentage increase equivalent to the lesser of (i) the increase in the designated cost of living index or (ii) 5%. The designated cost of living index is the index known as the "Employment Cost Index, Wages and Salaries, By Occupation and Industry Groups: State and Local Government Workers: Public Administration" as published by the Bureau of Labor Statistics of the U.S. Department of Labor for the calendar year immediately preceding the year of the respective July 1st increase date. The increase shall be added to the then current amount, and the adjusted amount so determined shall be the annual amount beginning July 1 of the increase year until July 1 of the next year. No increase under this provision shall be less than zero.

A member may purchase office equipment if the member certifies to the Secretary of the Senate or the Clerk of the House, as applicable, that the purchase price, whether paid in lump sum or installments, amounts to less than would be charged for renting or leasing the equipment over its anticipated useful life. All such equipment must be purchased through the Secretary of the Senate or the Clerk of the House, as applicable, for proper identification and verification of purchase.

Each member of the General Assembly is authorized to employ one or more legislative assistants, who shall be solely under the direction and control of that member, for the purpose of assisting the member in the performance of his or her official duties. A legislative assistant may be employed pursuant to this Section as a full-time employee, part-time employee, or contractual employee, at the discretion of the member. If employed as a State employee, a legislative assistant shall receive employment benefits on the same terms and conditions that apply to other employees of the General Assembly. Each member shall adopt and implement personnel policies for legislative assistants under his or her direction and control relating to work time requirements, documentation for reimbursement for travel on official State business, compensation, and the earning and accrual of State benefits for those legislative assistants who may be eligible to receive those benefits. The policies shall also require legislative assistants to periodically submit time sheets documenting, in quarter-hour increments, the time spent each day on official State business. The policies shall require the time sheets to be submitted on paper, electronically, or both and to be maintained in either paper or electronic format by the applicable fiscal office for a period of at least 2 years. Contractual employees may satisfy the time sheets requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement. A member may satisfy the requirements of this paragraph by adopting and implementing the personnel policies promulgated by that member's legislative leader under the State Officials and Employees Ethics Act with respect to that member's legislative assistants.

As used in this Section the term "personal services" shall include contributions of the State under the Federal Insurance Contribution Act and under Article 14 of the Illinois Pension Code. As used in this Section the term "contractual services" shall not include improvements to real property unless those improvements are the obligation of the lessee under the lease agreement. Beginning July 1, 1989, as used in the Section, the term "travel" shall be limited to travel in connection with a member's legislative duties and not in connection with any political campaign. Beginning on the effective date of this amendatory Act of the 93rd General Assembly, as used in this Section, the term "printing" includes, but is not limited to, newsletters, brochures, certificates, congratulatory mailings, greeting or welcome messages, anniversary or birthday cards, and congratulations for prominent achievement cards. As used in this Section, the term "printing" includes fees for non-substantive resolutions charged by the Clerk of the House of Representatives under subsection (c-5) of Section 1 of the Legislative Materials Act. No newsletter or brochure that is paid for, in whole or in part, with funds provided under this Section may be printed or mailed during a period beginning February 1 of the year of a general primary election and ending the day after the general primary election and during a period beginning September 1 of the year of a general election and ending the day after the general election, except that such a newsletter or brochure may be mailed during those times if it is mailed to a constituent in response to that constituent's inquiry concerning the needs of that constituent or questions raised by that constituent. Nothing in this Section shall be construed to authorize expenditures for lodging and meals while a member is in attendance at sessions of the General Assembly.

Any utility bill for service provided to a member's district office for a period including portions of 2 consecutive fiscal years may be paid from funds appropriated for such expenditure in either fiscal year.

If a vacancy occurs in the office of Senator or Representative in the General Assembly, any office equipment in the possession of the vacating member shall transfer to the member's successor; if the successor does not want such equipment, it shall be transferred to the Secretary of the Senate or Clerk of the House of Representatives, as the case may be, and if not wanted by other members of the General Assembly then to the Department of Central Management Services for treatment as surplus property under the State Property Control Act. Each member, on or before June 30th of each year, shall conduct an inventory of all equipment purchased pursuant to this Act. Such inventory shall be filed with the Secretary of the Senate or the Clerk of the House, as the case may be. Whenever a vacancy occurs, the Secretary of the Senate or the Clerk of the House, as the case may be, shall conduct an inventory of equipment purchased.

In the event that a member leaves office during his or her term, any unexpended or unobligated portion of the allowance granted under this Section shall lapse. The vacating member's successor shall be granted an allowance in an amount, rounded to the nearest dollar, computed by dividing the annual allowance by 365 and multiplying the quotient by the number of days remaining in the fiscal year.

From any appropriation for the purposes of this Section for a fiscal year which overlaps 2 General Assemblies, no more than 1/2 of the annual allowance per member may be spent or encumbered by any member of either the outgoing or incoming General Assembly, except that any member of the incoming General Assembly who was a member of the outgoing General Assembly may encumber or spend any portion of his annual allowance within the fiscal year.

The appropriation for the annual allowances permitted by this Section shall be included in an appropriation to the President of the Senate and to the Speaker of the House of Representatives for their respective members. The President of the Senate and the Speaker of the House shall voucher for payment individual members' expenditures from their annual office allowances to the State Comptroller, subject to the authority of the Comptroller under Section 9 of the State Comptroller Act.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

ILLINOIS PROCUREMENT CODE 30 ILCS 500/

ARTICLE 1 GENERAL PROVISIONS 30 ILCS 500/

SHORT TITLE

(30 ILCS 500/1-1)

Sec. 1-1. Short title. This Act may be cited as the Illinois Procurement Code.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

PUBLIC POLICY

(30 ILCS 500/1-5)

Sec. 1-5. Public policy. It is the purpose of this Code and is declared to be the policy of the State that the principles of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts by or for any State agency.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

APPLICATION

(30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including but not limited to any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys. This Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code.

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care.

(4) Hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and technical ability

and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university.

(9) Procurement expenditures by the Illinois Conservation Foundation when only private funds are used.

(Source: P.A. 91-627, eff. 8-19-99; 91-904, eff. 7-6-00; 92-797, eff. 8-15-02.)

DEFINITIONS

(30 ILCS 500/1-15)

Sec. 1-15. Definitions. For the purposes of this Code, the words set forth in the following Sections of this Article have the meanings set forth in those Sections.

(Source: P.A. 90-572, eff. 2-6-98.)

ASSOCIATE PROCUREMENT OFFICERS

(30 ILCS 500/1-15.03)

Sec. 1-15.03. Associate Procurement Officers. "Associate Procurement Officers" means those persons appointed as provided in Section 10-15.

(Source: P.A. 90-572, eff. 2-6-98.)

BOARD

(30 ILCS 500/1-15.05)

Sec. 1-15.05. Board. "Board" means the Procurement Policy Board.

(Source: P.A. 90-572, eff. 2-6-98.)

BUSINESS

(30 ILCS 500/1-15.10)

Sec. 1-15.10. Business. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity.

(Source: P.A. 90-572, eff. 2-6-98.)

CHIEF PROCUREMENT OFFICER

(30 ILCS 500/1-15.15)

Sec. 1-15.15. Chief Procurement Officer. "Chief Procurement Officer" means:

(1) for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board, the executive director of the Capital Development Board.

(2) for procurements for all construction, construction-related services, operation of any facility, and the provision of any service or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation, including the direct or reimbursable expenditure of all federal funds for which the Department of Transportation is responsible or accountable for the use thereof in accordance with federal law, regulation, or procedure, the Secretary of Transportation.

(3) for all procurements made by a public institution of higher education, a representative designated by the Governor.

(4) for all other procurements, the Director of the Department of Central Management Services.

(Source: P.A. 90-572, eff. 2-6-98.)

CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES

(30 ILCS 500/1-15.20)

Sec. 1-15.20. Construction and construction-related services. "Construction" means building, altering, repairing, improving, or demolishing any public structure or building, or making

improvements of any kind to public real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"Construction-related services" means those services including construction design, layout, inspection, support, feasibility or location study, research, development, planning, or other investigative study undertaken by a construction agency concerning construction or potential construction.

(Source: P.A. 90-572, eff. 2-6-98.)

CONSTRUCTION AGENCY

(30 ILCS 500/1-15.25)

Sec. 1-15.25. Construction agency. "Construction agency" means the Capital Development Board for construction or remodeling of State-owned facilities; the Illinois Department of Transportation for construction or maintenance of roads, highways, bridges, and airports; the Illinois Toll Highway Authority for construction or maintenance of toll highways; and any other State agency entering into construction contracts as authorized by law or by delegation from the chief procurement officer.

(Source: P.A. 90-572, eff. 2-6-98.)

CONTRACT

(30 ILCS 500/1-15.30)

Sec. 1-15.30. Contract. "Contract" means all types of State agreements, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases of real property or capital improvements, and including master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, and change orders.

(Source: P.A. 90-572, eff. 2-6-98.)

COST-REIMBURSEMENT CONTRACT

(30 ILCS 500/1-15.35)

Sec. 1-15.35. Cost-reimbursement contract. "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs that are allowable and allocable in accordance with the contract terms and the provisions of this Code, and a fee, if any.

(Source: P.A. 90-572, eff. 2-6-98.)

GRANT

(30 ILCS 500/1-15.42)

Sec. 1-15.42. Grant. "Grant" means the furnishing by the State of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award the primary purpose of which is to procure an end product for the direct benefit or use of the State agency making the grant, whether in the form of goods, services, or construction. A contract that results from such an award is not a grant and is subject to this Code.

(Source: P.A. 90-572, eff. 2-6-98.)

INVITATION FOR BIDS

(30 ILCS 500/1-15.45)

Sec. 1-15.45. Invitation for bids. "Invitation for bids" means the process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.

(Source: P.A. 90-572, eff. 2-6-98.)

NEGOTIATION

(30 ILCS 500/1-15.50)

Sec. 1-15.50. Negotiation. "Negotiation" means the process of selecting a contractor other than by competitive sealed bids, multi-step sealed bidding, or competitive sealed proposals, whereby a purchasing agency can establish any and all terms and conditions of a procurement contract by discussion with one or more prospective contractors.

(Source: P.A. 90-572, eff. 2-6-98.)

PERSON

(30 ILCS 500/1-15.55)

Sec. 1-15.55. Person. "Person" means any business, public or private corporation, partnership, individual, union, committee, club, unincorporated association or other organization or group of individuals, or other legal entity.

(Source: P.A. 90-572, eff. 2-6-98.)

PROFESSIONAL AND ARTISTIC SERVICES

(30 ILCS 500/1-15.60)

Sec. 1-15.60. Professional and artistic services. "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability.

(Source: P.A. 90-572, eff. 2-6-98.)

PURCHASE DESCRIPTION

(30 ILCS 500/1-15.65)

Sec. 1-15.65. Purchase description. "Purchase description" means the words used in a solicitation to describe the supplies, services, professional or artistic services, or construction to be procured or real property or capital improvements to be leased and includes specifications attached to or made a part of the solicitation.

(Source: P.A. 90-572, eff. 2-6-98.)

PURCHASE OF CARE

(30 ILCS 500/1-15.68)

Sec. 1-15.68. Purchase of care. "Purchase of care" means a contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitative, social, or human services directly to a recipient of a State aid program.

(Source: P.A. 90-572, eff. 2-6-98.)

PURCHASING AGENCY

(30 ILCS 500/1-15.70)

Sec. 1-15.70. Purchasing agency. "Purchasing agency" means a State agency that is authorized by this Code, by its implementing rules, or by authorized delegation of a chief procurement officer to enter into contracts.

(Source: P.A. 90-572, eff. 2-6-98.)

REQUEST FOR PROPOSALS

(30 ILCS 500/1-15.75)

Sec. 1-15.75. Request for proposals. "Request for proposals" means the process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.

(Source: P.A. 90-572, eff. 2-6-98.)

RESPONSIBLE BIDDER OR OFFEROR

(30 ILCS 500/1-15.80)

Sec. 1-15.80. Responsible bidder or offeror. "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance.

(Source: P.A. 90-572, eff. 2-6-98.)

RESPONSIVE BIDDERS

(30 ILCS 500/1-15.85)

Sec. 1-15.85. Responsive bidder. "Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the invitation for bids.

(Source: P.A. 90-572, eff. 2-6-98.)

SERVICES

(30 ILCS 500/1-15.90)

Sec. 1-15.90. Services. "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.

(Source: P.A. 90-572, eff. 2-6-98.)

SPECIFICATIONS

(30 ILCS 500/1-15.95)

Sec. 1-15.95. Specifications. "Specifications" means any description, provision, or requirement pertaining to the physical or functional characteristics or of the nature of a supply, service, or other item to be procured under a contract. Specifications may include a description of any requirement for inspecting, testing, or preparing a supply, service, professional or artistic service, construction, or other item for delivery.

(Source: P.A. 90-572, eff. 2-6-98.)

STATE AGENCY

(30 ILCS 500/1-15.100)

Sec. 1-15.100. State agency. "State agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governor State University, Northeastern Illinois University, and the Board of Higher Education. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code or to the University of Illinois Foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act, and the Illinois Comprehensive Health Insurance Board.

(Source: P.A. 90-572, eff. 2-6-98.)

STATE PURCHASING OFFICER

(30 ILCS 500/1-15.105)

Sec. 1-15.105. State purchasing officer. "State purchasing officer" means a person appointed by any of the chief procurement officers to exercise the procurement authority created by this Code or by rule.

(Source: P.A. 90-572, eff. 2-6-98.)

SUPPLIES

(30 ILCS 500/1-15.110)

Sec. 1-15.110. Supplies. "Supplies" means all personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies.

(Source: P.A. 90-572, eff. 2-6-98.)

USING AGENCY

(30 ILCS 500/1-15.115)

Sec. 1-15.115. Using agency. "Using agency" means a State agency that uses items procured under this Code.

(Source: P.A. 90-572, eff. 2-6-98.)

PROPERTY RIGHTS

(30 ILCS 500/1-25)

Sec. 1-25. Property rights. No person shall have any right to a specific contract with the State unless that person has a contract that has been signed by an officer or employee of the purchasing agency with appropriate signature authority. The State shall be under no obligation to issue an award or execute a contract.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

APPLICABILITY TO CONSTITUTIONAL OFFICERS AND THE LEGISLATIVE AND JUDICIAL BRANCHES

(30 ILCS 500/1-30)

Sec. 1-30. Applicability to Constitutional Officers and the Legislative and Judicial Branches.

(a) The constitutional officers shall procure their needs in a manner substantially in accordance with the requirements of this Code and shall promulgate rules no less restrictive than the requirements of this Code.

(b) The legislative and judicial branches are exempt from this Code. The legislative and judicial branches shall make procurements in accordance with rules promulgated to meet their needs. Procurement rules promulgated by the legislative and judicial branches may incorporate provisions of this Code.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ARTICLE 5
POLICY ORGANIZATION
30 ILCS 500/

PROCUREMENT POLICY BOARD

(30 ILCS 500/5-5)

Sec. 5-5. Procurement Policy Board.

(a) Creation. There is created a Procurement Policy Board.

(b) Authority and duties. The Board shall have the authority and responsibility to review, comment upon, and recommend, consistent with this Code, rules and practices governing the procurement, management, control, and disposal of supplies, services, professional or artistic services, construction, and real property and capital improvement leases procured by the State. Upon a three-fifths vote of its members, the Board may review a contract. Upon a three-fifths vote of its members, the Board may propose procurement rules for consideration by chief procurement officers. These proposals shall be published in each volume of the Procurement Bulletin. Except as otherwise provided by law, the Board shall act upon the vote of a majority of its members who have been appointed and are serving.

(c) Members. The Board shall consist of 5 members appointed one each by the 4 legislative leaders and the Governor. Each member shall have demonstrated sufficient business or professional experience in the area of procurement to perform the functions of the Board. No member may be a member of the General Assembly.

(d) Terms. Of the initial appointees, the Governor shall designate one member, as Chairman, to serve a one-year term, the President of the Senate and the Speaker of the House shall each appoint one member to serve 3-year terms, and the Minority Leader of the House and the Minority Leader of the Senate shall each appoint one member to serve 2-year terms. Subsequent terms shall be 4 years. Members may be reappointed for succeeding terms.

(e) Reimbursement. Members shall receive no compensation but shall be reimbursed for any expenses reasonably incurred in the performance of their duties.

(f) Staff support. Upon a three-fifths vote of its members, the Board may employ an executive director. Subject to appropriation, the Board also may have up to 3 staff persons. Other support services shall be provided by the chief procurement officers.

(g) Meetings. Meetings of the Board may be conducted telephonically, electronically, or through the use of other telecommunications. Written minutes of such meetings shall be created and available for public inspection and copying.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

INTERESTS OF BOARD MEMBERS

(30 ILCS 500/5-23)

Sec. 5-23. Interests of Board members. Members of the Procurement Policy Board employed by or holding an interest in an entity doing business with or attempting to do business with the State of Illinois do not, by their service on the Board, preclude that entity from doing business with or attempting to do business with the State.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

RULEMAKING AUTHORITY

(30 ILCS 500/5-25)

Sec. 5-25. Rulemaking authority. A State agency authorized to make procurements under this Code shall have the authority to promulgate rules to carry out that authority. That rulemaking on specific procurement topics is mentioned in specific Sections of this Code shall not be construed as prohibiting or limiting rulemaking on other procurement topics.

All rules shall be promulgated in accordance with the Illinois Administrative Procedure Act. Contractual provisions, specifications, and procurement descriptions are not rules and are not subject to the Illinois Administrative Procedure Act. All rules other than those promulgated by the Board shall be presented in writing to the Board for its review and comment. The Board shall express its opinions and recommendations in writing. Both the proposed rules and Board recommendations shall be made available for public review. The rules shall also be approved by the applicable chief procurement officer and the Joint Committee on Administrative Rules.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ARTICLE 10 APPOINTMENTS 30 ILCS 500/

EXERCISE OF PROCUREMENT AUTHORITY

(30 ILCS 500/10-5)

Sec. 10-5. Exercise of procurement authority. The State purchasing officers shall be appointed by their respective chief procurement officer and approved by the director of each

State agency. The State purchasing officer of each State agency shall exercise the procurement authority created by this Code except as otherwise provided in this Code.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

GENERAL APPOINTMENTS

(30 ILCS 500/10-10)

Sec. 10-10. General appointments. The chief procurement officer shall appoint and the director of each State agency shall approve a State purchasing officer to exercise within his or her jurisdiction the procurement authority created by this Code. In the absence of an appointed and approved State purchasing officer, the applicable chief procurement officer shall exercise the procurement authority created by this Code.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ASSOCIATE PROCUREMENT OFFICERS

(30 ILCS 500/10-15)

Sec. 10-15. Associate Procurement Officers. The Governor, with the consent of the statutory chief procurement officers, may for proper and effective administration of this Code appoint associate procurement officers. All associate procurement officers shall be submitted to the Senate for advice and consent. For the purposes of this Code, duly appointed associate procurement officers shall function in all respects as chief procurement officers. Associate procurement officers shall serve at the pleasure of the Governor.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ARTICLE 15 PROCUREMENT BULLETIN 30 ILCS 500/

PUBLISHER

(30 ILCS 500/15-1)

Sec. 15-1. Publisher. The Department of Central Management Services is the State agency responsible for publishing its volumes of the Illinois Procurement Bulletin. The Capital Development Board is responsible for publishing its volumes of the Illinois Procurement Bulletin. The Department of Transportation is responsible for publishing its volumes of the Illinois Procurement Bulletin. The higher education chief procurement officer is responsible for publishing the higher education volumes of the Illinois Procurement Bulletin.

Each volume of the Illinois Procurement Bulletin shall be available electronically and may be available in print. References in this Code to the publication and distribution of the Illinois Procurement Bulletin include both its print and electronic formats.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

CONTENTS

(30 ILCS 500/15-10)

Sec. 15-10. Contents. The Illinois Procurement Bulletin shall contain notices and other information required by this Code or by rules promulgated under this Code to be published in the Illinois Procurement Bulletin. Each volume shall include a comprehensive index of its contents.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

PUBLICATION

(30 ILCS 500/15-15)

Sec. 15-15. Publication. All volumes of the Illinois Procurement Bulletin shall be published at least once per month. Any volume, including volumes available in print format, shall be available through subscription for a minimal fee not exceeding publication and distribution costs. The Illinois Procurement Bulletin shall be distributed free to public libraries within Illinois. (Source: P.A. 90-572, eff. date – See Sec. 99-5.)

QUALIFIED BIDDERS

(30 ILCS 500/15-20)

Sec. 15-20. Qualified bidders. Subscription to the Illinois Procurement Bulletin shall not be required to qualify as a bidder or offeror under this Code. (Source: P.A. 90-572, eff. date – See Sec. 99-5.)

BULLETIN CONTENT

(30 ILCS 500/15-25)

Sec. 15-25. Bulletin content.

(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date submission of offers is due, the location that offers are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, and information of how to obtain a comprehensive purchase description and any disclosure and contract forms.

(b) Contracts let or awarded. Notice of each and every contract that is let or awarded, including renegotiated contracts and change orders, shall be published in the next available subsequent Bulletin, and the applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least all of the information specified in subsection (a) as well as the name of the successful responsible bidder or offeror, the contract price, the number of unsuccessful responsive bidders, and any other disclosure specified in any Section of this Code.

(c) Emergency purchase disclosure. Any chief procurement officer, State purchasing officer, or designee exercising emergency purchase authority under this Code shall publish a written description and reasons and the total cost, if known, or an estimate if unknown and the name of the responsible chief procurement officer and State purchasing officer, and the business or person contracted with for all emergency purchases in the next timely, practicable Bulletin.

(d) Other required disclosure. The applicable chief procurement officer shall provide by rule for the organized publication of all other disclosure required in other Sections of this Code in a timely manner.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ARTICLE 20

SOURCE SELECTION AND CONTRACT FORMATION

30 ILCS 500/

METHOD OF SOURCE SELECTION

(30 ILCS 500/20-5)

Sec. 20-5. Method of source selection. Unless otherwise authorized by law, all State contracts shall be awarded by competitive sealed bidding, in accordance with Section 20-10, except as provided in Sections 20-15, 20-20, 20-25, 20-30, 20-35, 30-15, and 40-20.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

COMPETITIVE SEALED BIDDING

(30 ILCS 500/20-10)

Sec. 20-10. Competitive sealed bidding.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation. (Source: P.A. 90-572, eff. date – See Sec. 99-5.)

COMPETITIVE SEALED PROPOSALS

(30 ILCS 500/20-15)

Sec. 20-15. Competitive sealed proposals.

(a) Conditions for use. When provided under this Code or under rules, or when the purchasing agency determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the State, a contract may be entered into by competitive sealed proposals.

(b) Request for proposals. Proposals shall be solicited through a request for proposals.

(c) Public notice. Public notice of the request for proposals shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of proposals.

(d) Receipt of proposals. Proposals shall be opened publicly in the presence of one or more witnesses at the time and place designated in the request for proposals, but proposals shall be opened in a manner to avoid disclosure of contents to competing offerors during the process of negotiation. A record of proposals shall be prepared and shall be open for public inspection after contract award.

(e) Evaluation factors. The requests for proposals shall state the relative importance of price and other evaluation factors. Proposals shall be submitted in 2 parts: the first, covering items except price; and the second, covering price. The first part of all proposals shall be evaluated and ranked independently of the second part of all proposals.

(f) Discussion with responsible offerors and revisions of proposals. As provided in the request for proposals and under rules, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing offerors. If information is disclosed to any offeror, it shall be provided to all competing offerors.

(g) Award. Awards shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

SMALL PURCHASES

(30 ILCS 500/20-20)

Sec. 20-20. Small purchases.

(a) Amount. Any individual procurement of supplies or services other than professional or artistic services, not exceeding \$10,000 and any procurement of construction not exceeding \$30,000 may be made without competitive sealed bidding. Procurements shall not be artificially divided so as to constitute a small purchase under this Section.

(b) Adjustment. Each July 1, the small purchase maximum established in subsection (a) shall be adjusted for inflation as determined by the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor and rounded to the nearest \$100.

(c) Based upon rules proposed by the Board and rules promulgated by the chief procurement officers, the small purchase maximum established in subsection (a) may be modified.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

SOLE SOURCE PROCUREMENTS

(30 ILCS 500/20-25)

Sec. 20-25. Sole source procurements. In accordance with standards set by rule, contracts may be awarded without use of the specified method of source selection when there is only one economically feasible source for the item. At least 2 weeks before entering into a sole source contract, the purchasing agency shall publish in the Illinois Procurement Bulletin a notice of intent to do so along with a description of the item to be procured and the intended sole source contractor.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

EMERGENCY PURCHASES

(30 ILCS 500/20-30)

Sec. 20-30. Emergency purchases.

(a) Conditions for use. In accordance with standards set by rule, a purchasing agency may make emergency procurements without competitive sealed bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State property, to prevent or minimize serious disruption in State services, or to ensure the integrity of State records. Emergency procurements shall be made with as much competition as is practicable under the circumstances. A written description of the basis for the emergency and reasons for the selection of the particular contractor shall be included in the contract file.

(b) Notice. Before the next appropriate volume of the Illinois Procurement Bulletin, the purchasing agency shall publish in the Illinois Procurement Bulletin a copy of each written description and reasons and the total cost of each emergency procurement made during the previous month. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the actual total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month.

(c) Affidavits. A purchasing agency making a procurement under this Section shall file affidavits with the chief procurement officer and the Auditor General within 10 days after the procurement setting forth the amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. When only an estimate of the cost is available within 10 days after the procurement, the actual cost shall be reported immediately after it is determined. At the end of each fiscal quarter, the Auditor General shall file with the Legislative Audit Commission and the Governor a complete listing of all emergency procurements reported during that fiscal quarter. The Legislative Audit Commission shall review the emergency procurements so reported and, in its annual reports, advise the General Assembly of procurements that appear to constitute an abuse of this Section.

(d) Quick purchases. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make purchases under this Section, including but not limited to the procurement of items available at a discount for a limited period of time.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

COMPETITIVE SELECTION PROCEDURES

(30 ILCS 500/20-35)

Sec. 20-35. Competitive selection procedures.

(a) Conditions for use. The services specified in Article 35 shall be procured in accordance with this Section, except as authorized under Sections 20-25 and 20-30 of this Article.

(b) Statement of qualifications. Potential contractors shall submit statements of qualifications and expressions of interest. The chief procurement officer shall specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

(c) Public announcement and form of request for proposals. Public notice of the need for the procurement shall be given in the form of a request for proposals and published in the Illinois Procurement Bulletin at least 14 days before the date set in the request for proposals for the opening of proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(d) Discussions. The purchasing agency may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(e) Award. Award shall be made to the offeror determined in writing by the purchasing agency to be best qualified based on the evaluation factors set forth in the request for proposals and negotiation of compensation determined to be fair and reasonable.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

CANCELLATION OF INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS

(30 ILCS 500/20-40)

Sec. 20-40. Cancellation of invitations for bids or requests for proposals. An invitation for bids, a request for proposals, or any other solicitation may be cancelled without penalty, or any and all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the State in accordance with rules. The reasons for cancellation or rejection shall be made part of the contract file.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

PREQUALIFICATION OF SUPPLIERS

(30 ILCS 500/20-45)

Sec. 20-45. Prequalification of suppliers. The chief procurement officer shall promulgate rules for the development of prequalified supplier lists for appropriate categories of purchases and the annual updating of those lists.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

SPECIFICATIONS

(30 ILCS 500/20-50)

Sec. 20-50. Specifications. Specifications shall be prepared in accordance with consistent standards that are promulgated by the chief procurement officer and reviewed by the Board and the Joint Committee on Administrative Rules. Those standards shall include a prohibition against the use of brand-name only products, except for products intended for retail sale or as specified by rule, and shall include a restriction on the use of specifications drafted by a potential bidder. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the State's needs and shall not be unduly restrictive.

A solicitation or specification for a contract or a contract, including a contract of a college, university, or institution under the jurisdiction of a governing board listed in Section 1-15.100, may not require, stipulate, suggest, or encourage a monetary or other financial contribution or donation as an explicit or implied term or condition for awarding or completing the contract. The contract, solicitation, or specification also may not include a requirement that an individual or individuals employed by such a college, university, or institution receive a consulting contract for professional services.

(Source: P.A. 90-572, eff. date – See Sec. 99-5; 91-627, eff. 8-19-99.)

TYPES OF CONTRACTS

(30 ILCS 500/20-55)

Sec. 20-55. Types of contracts. Subject to the limitations of this Section and unless otherwise authorized by law, any type of contract that will promote the best interests of the State may be used, except that cost-plus-a-percentage-of-cost contracts are prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that a cost-reimbursement contract is likely to be less costly to the State than any other type or that it is

impracticable to obtain the item required except under that type of contract. The general form of contracts shall be determined by the chief procurement officer.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

DURATION OF CONTRACTS

(30 ILCS 500/20-60)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract may be entered into for any period of time deemed to be in the best interests of the State but not exceeding 10 years. The length of a lease for real property or capital improvements shall be in accordance with the provisions of

Section 40-25.

(b) Subject to appropriation. All contracts made or entered into shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the contract.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

RIGHT TO AUDIT RECORDS

(30 ILCS 500/20-65)

Sec. 20-65. Right to audit records.

(a) Maintenance of books and records. Every contract and subcontract shall require the contractor or subcontractor, as applicable, to maintain books and records relating to the performance of the contract or subcontract and necessary to support amounts charged to the State under the contract or subcontract. The books and records shall be maintained by the contractor for a period of 3 years from the later of the date of final payment under the contract or completion of the contract and by the subcontractor for a period of 3 years from the later of the date of final payment under the subcontract or completion of the subcontract. However, the 3-year period shall be extended for the duration of any audit in progress at the time of that period's expiration.

(b) Audit. Every contract and subcontract shall provide that all books and records required to be maintained under subsection (a) shall be available for review and audit by the Auditor General and the purchasing agency. Every contract and subcontract shall require the contractor and subcontractor, as applicable, to cooperate fully with any audit.

(c) Failure to maintain books and records. Failure to maintain the books and records required by this Section shall establish a presumption in favor of the State for the recovery of any funds paid by the State for which required books and records are not available.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

FINALITY OF DETERMINATIONS

(30 ILCS 500/20-70)

Sec. 20-70. Finality of determinations. Determinations made by a purchasing agency under this Code are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

DISPUTES AND PROTESTS

(30 ILCS 500/20-75)

Sec. 20-75. Disputes and protests. The chief procurement officers shall by rule establish procedures to be followed by purchasing agencies in resolving protested solicitations and awards and contract controversies, for debarment or suspension of contractors, and for resolving other procurement-related disputes.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

CONTRACT FILES

(30 ILCS 500/20-80)

Sec. 20-80. Contract files.

(a) Written determinations. All written determinations required under this Article shall be placed in the contract file maintained by the chief procurement officer.

(b) Filing with Comptroller. Whenever a grant, defined pursuant to accounting standards established by the Comptroller, or a contract liability, except for: (1) contracts paid from personal services, or (2) contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code, exceeding \$10,000 is incurred by any State agency, a copy of the contract, purchase order, grant, or lease shall be filed with the Comptroller within 15 days thereafter. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 15 days of its execution.

(c) Late filing affidavit. When a contract, purchase order, grant, or lease required to be filed by this Section has not been filed within 30 days of execution, the Comptroller shall refuse to issue a warrant for payment thereunder until the agency files with the Comptroller the contract, purchase order, grant, or lease and an affidavit, signed by the chief executive officer of the agency or his or her designee, setting forth an explanation of why the contract liability was not filed within 30 days of execution. A copy of this affidavit shall be filed with the Auditor General.

(d) Professional and artistic services contracts. No voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury or from other funds held by the State Treasurer on account of any contract for services involving professional or artistic skills involving an expenditure of more than \$5,000 for the same type of service at the same location during any fiscal year unless the contract is reduced to writing before the services are performed and filed with the Comptroller. When a contract for professional or artistic skills in excess of \$5,000 was not reduced to writing before the services were performed, the Comptroller shall refuse to issue a warrant for payment for the services until the State agency files with the Comptroller:

(1) a written contract covering the services, and

(2) an affidavit, signed by the chief executive officer of the State agency or his or her designee, stating that the services for which payment is being made were agreed to before commencement of the services and setting forth an explanation of why the contract was not reduced to writing before the services commenced.

A copy of this affidavit shall be filed with the Auditor General. The Comptroller shall maintain professional or artistic service contracts filed under this Section separately from other filed contracts.

(e) Method of source selection. When a contract is filed with the Comptroller under this Section, the Comptroller's file shall identify the method of source selection used in obtaining the contract.

(Source: P.A. 90-572, eff. date – See Sec. 99-5; 91-904, eff. 7-6-00.)

FEDERAL REQUIREMENTS

(30 ILCS 500/20-85)

Sec. 20-85. Federal requirements. A State agency receiving federal-aid funds, grants, or loans shall have authority to adopt its procedures, rules, project statements, drawings, maps, surveys, plans, specifications, contract terms, estimates, bid forms, bond forms, and other documents or practices to comply with the regulations, policies, and procedures of the designated authority, administration, or department of the United States, in order to remain eligible for such federal-aid funds, grants, or loans.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

FOREIGN COUNTRY PROCUREMENTS

(30 ILCS 500/20-90)

Sec. 20-90. Foreign country procurements. Procurements to meet the needs of State offices located in foreign countries shall comply with the provisions of this Code to the extent practical.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

DONATIONS

(30 ILCS 500/20-95)

Sec. 20-95. Donations. Nothing in this Code or in the rules promulgated under this Code shall prevent any State agency from complying with the terms and conditions of any grant, gift, or bequest that calls for the procurement of a particular good or service or the use of a particular contractor, provided that the grant, gift, or bequest provides majority funding for the contract.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

STATE AGENCY PRINTING

(30 ILCS 500/20-105)

Sec. 20-105. State agency printing. All books, pamphlets, documents, and reports published through or by the State of Illinois or any State agency, board, or commission shall have printed thereon "Printed by authority of the State of Illinois", the date of each publication, the number of copies printed, and the printing order number. Each using agency shall be responsible for ascertaining the compliance of printing materials procured by or for it with this Section. No printing or reproduction contract shall be let and no printing or reproduction shall be accomplished when that wording does not appear on the material to be printed or reproduced. No publication may have written, stamped, or printed on it, or attached to it, "Compliments of (naming a person)" or any words of similar import.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

PRINTING COST OFFSETS

(30 ILCS 500/20-110)

Sec. 20-110. Printing cost offsets. The chief procurement officer may promulgate rules permitting the exchange of advertising rights in or receipt of free copies of printed products procured under this Article as a means of reducing printing costs. The rules shall specify the appropriate method of source selection to be used to competitively acquire printing cost offsets.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ARTICLE 25
SUPPLIES AND SERVICES (EXCLUDING
PROFESSIONAL OR ARTISTIC)
30 ILCS 500/

APPLICABILITY

(30 ILCS 500/25-5)

Sec. 25-5. Applicability. All contracts for supplies and services, excluding professional or artistic services, shall be procured in accordance with the provisions of this Article.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

AUTHORITY

(30 ILCS 500/25-10)

Sec. 25-10. Authority. State purchasing officers shall have the authority to procure supplies and services, except as that authority may be limited by the chief procurement officer.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

METHOD OF SOURCE SELECTION

(30 ILCS 500/25-15)

Sec. 25-15. Method of source selection.

(a) Competitive sealed bidding. Except as provided in subsection (b) and Sections 20-20, 20-25, and 20-30, all State contracts for supplies and services shall be awarded by competitive sealed bidding in accordance with Section 20-10.

(b) Other methods. The chief procurement officer may establish by rule (i) categories of purchases, including non-governmental joint purchases, that may be made without competitive sealed bidding and (ii) the most competitive alternate method of source selection that shall be used for each category of purchase.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

MORE FAVORABLE TERMS

(30 ILCS 500/25-30)

Sec. 25-30. More favorable terms. A supply or service contract may include, if determined by a State purchasing officer to be in the best interests of the State, a clause requiring that if more favorable terms are granted by the contractor to any similar state or local governmental agency in any state in a contemporaneous agreement let under the same or similar financial terms and circumstances for comparable supplies or services, the more favorable terms shall be applicable under the contract.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

PURCHASE OF COAL AND POSTAGE STAMPS

(30 ILCS 500/25-35)

Sec. 25-35. Purchase of coal and postage stamps.

(a) Delivery of necessary supplies. To avoid interruption or impediment of delivery of necessary supplies, commodities, and coal, State purchasing officers may make purchases of or contracts for supplies and commodities after April 30 of a fiscal year when delivery of the supplies and commodities is to be made after June 30 of that fiscal year and payment for which is to be made from appropriations for the next fiscal year.

(b) Postage. All postage stamps purchased from State funds must be perforated for identification purposes. A General Assembly member may furnish the U.S. Post Office with a warrant so as to allow for the creation or continuation of a bulk rate mailing fund in the name of the General Assembly member or may furnish a postage meter company or post office with a warrant so as to facilitate the purchase of a postage meter and its stamps. Any postage meter so purchased must also contain a stamp that shall state "Official State Mail".

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ENERGY CONSERVATION PROGRAM

(30 ILCS 500/25-45)

Sec. 25-45. Energy conservation program. State purchasing officers may enter into energy conservation program contracts that provide for utility cost savings. The chief procurement officer shall promulgate and adopt rules for the implementation of this Section.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ANNUAL REPORTS

(30 ILCS 500/25-55)

Sec. 25-55. Annual reports. Every printed annual report produced by a State agency shall bear a statement indicating whether it was printed by the State of Illinois or by contract and indicating the printing cost per copy and the number of copies printed. The Department of Central Management Services shall prepare and submit to the General Assembly on the fourth Wednesday of January in each year a report setting forth with respect to each State agency for the calendar year immediately preceding the calendar year in which the report is filed the total quantity of annual reports printed, the total cost, and the cost per copy and the cost per page of the annual report of the State agency printed during the calendar year covered by the report. (Source: P.A. 90-572, eff. date – See Sec. 99-5.)

PREVAILING WAGE REQUIREMENTS

(30 ILCS 500/25-60)

Sec. 25-60. Prevailing wage requirements.

(a) All services furnished under service contracts of \$2,000 or more or \$200 or more per month and under printing contracts shall be subject to the following prevailing wage requirements:

(1) Not less than the general prevailing wage rate of hourly wages for work of a similar character in the locality in which the work is produced shall be paid by the successful vendor to its employees who perform the work on the State contracts. The bidder or offeror, in order to be considered to be a responsible bidder or offeror for the purposes of this Code, shall certify to the purchasing agency that wages to be paid to its employees are no less, and fringe benefits and working conditions of employees are not less favorable, than those prevailing in the locality where the contract is to be performed. Prevailing wages and working conditions shall be determined by the Director of the Illinois Department of Labor.

(2) Whenever a collective bargaining agreement is in effect between an employer, other than a governmental body, and service or printing employees as defined in this Section who are represented by a responsible organization that is in no way influenced or controlled by the management, that agreement and its provisions shall be considered as conditions prevalent in that locality and shall be the minimum requirements taken into consideration by the Director of Labor.

(b) As used in this Section, "services" means janitorial cleaning services, window cleaning services, building and grounds services, site technician services, natural resources services, food services, and security services. "Printing" means and includes all processes and operations involved in printing, including but not limited to letterpress, offset, and gravure processes, the multilith method, photographic or other duplicating process, the operations of composition, platemaking, presswork, and binding, and the end products of those processes, methods, and operations. As used in this Code "printing" does not include photocopiers used in the course of normal business activities, photographic equipment used for geographic mapping, or printed matter that is commonly available to the general public from contractor inventory.

(c) The terms "general prevailing rate of hourly wages", "general prevailing rate of wages", or "prevailing rate of wages" when used in this Section mean the hourly cash wages plus fringe benefits for health and welfare, insurance, vacations, and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character.

(d) "Locality" shall have the meaning established by rule.

(e) This Section does not apply to services furnished under contracts for professional or artistic services.

(f) This Section does not apply to vocational programs of training for physically or mentally handicapped persons or to sheltered workshops for the severely disabled.

(Source: P.A. 93-370, eff. 1-1-04.)

ARTICLE 30
CONSTRUCTION AND
CONSTRUCTION-RELATED PROFESSIONAL SERVICES
30 ILCS 500/

APPLICABILITY

(30 ILCS 500/30-5)

Sec. 30-5. Applicability. Construction and construction-related professional services shall be procured in accordance with this Article.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

AUTHORITY

(30 ILCS 500/30-10)

Sec. 30-10. Authority. Construction agencies shall have the authority to procure construction and construction-related professional services.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

METHOD OF SOURCE SELECTION

(30 ILCS 500/30-15)

Sec. 30-15. Method of source selection.

(a) Competitive sealed bidding. Except as provided in subsections (b), (c), and (d) and Sections 20-20, 20-25, and 20-30, all State construction contracts shall be procured by competitive sealed bidding in accordance with Section 20-10.

(b) Other methods. The Capital Development Board shall establish by rule construction purchases that may be made without competitive sealed bidding and the most competitive alternate method of source selection that shall be used.

(c) Construction-related professional services. All construction-related professional services contracts shall be awarded in accordance with the provisions of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act. "Professional services" means those services within the scope of the practice of architecture, professional engineering, structural engineering, or registered land surveying, as defined by the laws of this State.

(d) Correctional facilities. Remodeling and rehabilitation projects at correctional facilities under \$25,000 funded from the General Revenue Fund are exempt from the provisions of this Article. The Department of Corrections may use inmate labor for the remodeling or rehabilitation of correctional facilities on those projects under \$25,000 funded from the General Revenue Fund.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

PREQUALIFICATION

(30 ILCS 500/30-20)

Sec. 30-20. Prequalification. The Capital Development Board shall promulgate rules for the development of prequalified supplier lists for construction and construction-related professional services and the periodic updating of those lists. Construction and construction-related professional services contracts over \$25,000 may be awarded to any qualified suppliers.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

CONSTRUCTION CONTRACTS; RESPONSIBLE BIDDER REQUIREMENTS

(30 ILCS 500/30-22)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 30-22. Construction contracts; responsible bidder requirements. To be considered a responsible bidder on a construction contract for purposes of this Code, a bidder must comply with all of the following requirements and must present satisfactory evidence of that compliance to the appropriate construction agency:

(1) The bidder must comply with all applicable laws concerning the bidder's entitlement to conduct business in Illinois.

(2) The bidder must comply with all applicable provisions of the Prevailing Wage Act.

(3) The bidder must comply with Subchapter VI ("Equal Employment Opportunities") of Chapter 21 of Title 42 of the United States Code (42 U.S.C. 2000e and following) and with Federal Executive Order No. 11246 as amended by Executive Order No. 11375.

(4) The bidder must have a valid Federal Employer Identification Number or, if an individual, a valid Social Security Number.

(5) The bidder must have a valid certificate of insurance showing the following coverages: general liability, professional liability, product liability, workers' compensation, completed operations, hazardous occupation, and automobile.

(6) The bidder and all bidder's subcontractors must participate in applicable apprenticeship and training programs approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

The provisions of this Section shall not apply to federally funded construction projects if such application would jeopardize the receipt or use of federal funds in support of such a project.

(Source: P.A. 93-642, eff. 6-1-04.)

RETENTION OF A PERCENTAGE OF CONTRACT PRICE

(30 ILCS 500/30-25)

Sec. 30-25. Retention of a percentage of contract price. Whenever any contract entered into by a construction agency for the repair, remodeling, renovation, or construction of a building or structure, for the construction or maintenance of a highway, as those terms are defined in Article 2 of the Illinois Highway Code, or for the reclamation of abandoned lands as those terms are defined in Article I of the Abandoned Mined Lands and Water Reclamation Act provides for the retention of a percentage of the contract price until final completion and acceptance of the work, upon the request of the contractor and with the approval of the construction agency the amount so retained may be deposited under a trust agreement with an Illinois bank or financial institution of the contractor's choice and subject to the approval of the construction agency. The contractor shall receive any interest on the deposited amount. Upon application by the contractor, the trust agreement must contain, at a minimum, the following provisions:

(1) the amount to be deposited subject to the trust;

(2) the terms and conditions of payment in case of default by the contractor;

(3) the termination of the trust agreement upon completion of the contract; and

(4) the contractor shall be responsible for obtaining the written consent of the bank trustee and for any costs or service fees.

The trust agreement may, at the discretion of the construction agency and upon request of the contractor, become effective at the time of the first partial payment in accordance with existing statutes and rules.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

CONTRACTS IN EXCESS OF \$250,000

(30 ILCS 500/30-30)

Sec. 30-30. Contracts in excess of \$250,000. For building construction contracts in excess of \$250,000, separate specifications shall be prepared for all equipment, labor, and materials in connection with the following 5 subdivisions of the work to be performed:

- (1) plumbing;
- (2) heating, piping, refrigeration, and automatic temperature control systems, including the testing and balancing of those systems;
- (3) ventilating and distribution systems for conditioned air, including the testing and balancing of those systems;
- (4) electric wiring; and
- (5) general contract work.

The specifications must be so drawn as to permit separate and independent bidding upon each of the 5 subdivisions of work. All contracts awarded for any part thereof shall award the 5 subdivisions of work separately to responsible and reliable persons, firms, or corporations engaged in these classes of work. The contracts, at the discretion of the construction agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the construction agency before the bidding as the prime subdivision of work, provided that all payments will be made directly to the contractors for the 5 subdivisions of work upon compliance with the conditions of the contract. A contract may be let for one or more buildings in any project to the same contractor. The specifications shall require, however, that unless the buildings are identical, a separate price shall be submitted for each building. The contract may be awarded to the lowest responsible bidder for each or all of the buildings included in the specifications.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

EXPENDITURE IN EXCESS OF CONTRACT PRICE

(30 ILCS 500/30-35)

Sec. 30-35. Expenditure in excess of contract price.

(a) Germaneness. No funds in excess of the contract price may be obligated or expended unless the additional work to be performed or materials to be furnished is germane to the original contract. Even if germane to the original contract, no additional expenditures or obligations may, in their total combined amounts, be in excess of the percentages of the original contract amount set forth in subsection (b) unless they have received the prior written approval of the construction agency. In the event that the total of the combined additional expenditures or obligations exceeds the percentages of the original contract amount set forth in subsection (b), the construction agency shall investigate all the additional expenditures or obligations in excess of the original contract amount and shall in writing approve or disapprove subsequent expenditures or obligations and state in detail the reasons for the approval or disapproval.

(b) Written determination required. When the contract amount is no more than \$75,000, the percentage shall be 9% (maximum \$6,750). When the contract amount is between \$75,001 and \$200,000, the percentage shall be 7% of the amount above \$75,000 plus \$6,750, but not to exceed 7% of \$200,000 (maximum \$14,000). When the contract amount is between \$200,001 and \$500,000, the percentage shall be 5% of the amount above \$200,000 plus \$14,000, but not to exceed 5% of \$500,000 (maximum \$25,000). When the contract amount is in excess of \$500,000, the percentage shall be 3% of the amount above \$500,000 plus \$25,000.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

OTHER ACTS

(30 ILCS 500/30-45)

Sec. 30-45. Other Acts. This Article is subject to applicable provisions of the following Acts:

- (1) the Prevailing Wage Act;

- (2) the Public Construction Bond Act;
- (3) the Public Works Employment Discrimination Act;
- (4) the Public Works Preference Act;
- (5) the Employment of Illinois Workers on Public Works Act;
- (6) the Public Contract Fraud Act; and
- (7) the Illinois Construction Evaluation Act.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ARTICLE 35 PROCUREMENT OF PROFESSIONAL AND ARTISTIC SERVICES 30 ILCS 500/

APPLICATION

(30 ILCS 500/35-5)

Sec. 35-5. Application. All professional and artistic services shall be procured in accordance with the provisions of this Article.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

AUTHORITY

(30 ILCS 500/35-10)

Sec. 35-10. Authority. Each State purchasing officer, under the supervision of his or her respective chief procurement officer, has the authority to select, according to the provisions of this Article, his or her own professional and artistic services.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

PREQUALIFICATION

(30 ILCS 500/35-15)

Sec. 35-15. Prequalification.

(a) The Director of Central Management Services and the higher education chief procurement officer shall each develop appropriate and reasonable prequalification standards and categories of professional and artistic services.

(b) The prequalifications and categorizations shall be submitted to the Procurement Policy Board and published for public comment prior to their submission to the Joint Committee on Administrative Rules for approval.

(c) The Director of Central Management Services and the higher education chief procurement officer shall each also assemble and maintain a comprehensive list of prequalified and categorized businesses and persons.

(d) Prequalification shall not be used to bar or prevent any qualified business or person for bidding or responding to invitations for bid or proposal.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

UNIFORMITY IN PROCUREMENT

(30 ILCS 500/35-20)

Sec. 35-20. Uniformity in procurement.

(a) The Director of Central Management Services and the higher education chief procurement officer shall each develop, cause to be printed, and distribute uniform documents for the solicitation, review, and acceptance of all professional and artistic services.

(b) All chief procurement officers, State purchasing officers, and their designees shall use the appropriate uniform procedures and forms specified in this Code for all professional and artistic services.

(c) These forms shall include in detail, in writing, at least:

- (1) a description of the goal to be achieved;
- (2) the services to be performed;
- (3) the need for the service;
- (4) the qualifications that are necessary; and
- (5) a plan for post-performance review.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

UNIFORMITY IN CONTRACT

(30 ILCS 500/35-25)

Sec. 35-25. Uniformity in contract.

(a) The Director of Central Management Services and the higher education chief procurement officer shall each develop, cause to be printed, and distribute uniform documents for the contracting of professional and artistic services.

(b) All chief procurement officers, State purchasing officers, and their designees shall use the appropriate uniform contracts and forms in contracting for all professional and artistic services.

(c) These contracts and forms shall include in detail, in writing, at least:

- (1) the detail listed in subsection (c) of Section 35-20;
- (2) the duration of the contract, with a schedule of delivery, when applicable;
- (3) the method for charging and measuring cost (hourly, per day, etc.);
- (4) the rate of remuneration; and
- (5) the maximum price.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

AWARDS

(30 ILCS 500/35-30)

Sec. 35-30. Awards.

(a) All State contracts for professional and artistic services, except as provided in this Section, shall be awarded using the competitive request for proposal process outlined in this Section.

(b) For each contract offered, the chief procurement officer, State purchasing officer, or his or her designee shall use the appropriate standard solicitation forms available from the Department of Central Management Services or the higher education chief procurement officer.

(c) Prepared forms shall be submitted to the Department of Central Management Services or the higher education chief procurement officer, whichever is appropriate, for publication in its Illinois Procurement Bulletin and circulation to the Department of Central Management Services' or the higher education chief procurement officer's list of prequalified vendors. Notice of the offer or request for proposal shall appear at least 14 days before the response to the offer is due.

(d) All interested respondents shall return their responses to the Department of Central Management Services or the higher education chief procurement officer, whichever is appropriate, which shall open and record them. The Department or higher education chief procurement officer then shall forward the responses, together with any information it has available about the qualifications and other State work of the respondents.

(e) After evaluation, ranking, and selection, the responsible chief procurement officer, State purchasing officer, or his or her designee shall notify the Department of Central Management Services or the higher education chief procurement officer, whichever is

appropriate, of the successful respondent and shall forward a copy of the signed contract for the Department's or higher education chief procurement officer's file. The Department or higher education chief procurement officer shall publish the names of the responsible procurement decision-maker, the agency letting the contract, the successful respondent, a contract reference, and value of the let contract in the next appropriate volume of the Illinois Procurement Bulletin.

(f) For all professional and artistic contracts with annualized value that exceeds \$25,000, evaluation and ranking by price are required. Any chief procurement officer or State purchasing officer, but not their designees, may select an offeror other than the lowest bidder by price. In any case, when the contract exceeds the \$25,000 threshold and the lowest bidder is not selected, the chief procurement officer or the State purchasing officer shall forward together with the contract notice of who the low bidder was and a written decision as to why another was selected to the Department of Central Management Services or the higher education chief procurement officer, whichever is appropriate. The Department or higher education chief procurement officer shall publish as provided in subsection (e) of Section 35-30, but shall include notice of the chief procurement officer's or State purchasing officer's written decision.

(g) The Department of Central Management Services and higher education chief procurement officer may each refine, but not contradict, this Section by promulgating rules for submission to the Procurement Policy Board and then to the Joint Committee on Administrative Rules. Any refinement shall be based on the principles and procedures of the federal Architect-Engineer Selection Law, Public Law 92-582 Brooks Act, and the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act; except that pricing shall be an integral part of the selection process.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

EXCEPTIONS

(30 ILCS 500/35-35)

Sec. 35-35. Exceptions.

(a) Exceptions to Section 35-30 are allowed for sole source procurements, emergency procurements, and at the discretion of the chief procurement officer or the State purchasing officer, but not their designees, for professional and artistic contracts that are nonrenewable, one year or less in duration, and have a value of less than \$20,000.

(b) All exceptions granted under this Article must still be submitted to the Department of Central Management Services or the higher education chief procurement officer, whichever is appropriate, and published as provided for in subsection (f) of Section 35-30, shall name the authorizing chief procurement officer or State purchasing officer, and shall include a brief explanation of the reason for the exception.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

SUBCONTRACTORS

(30 ILCS 500/35-40)

Sec. 35-40. Subcontractors.

(a) Any contract granted under this Article shall state whether the services of a subcontractor will be used. The contract shall include the names and addresses of all subcontractors and the expected amount of money each will receive under the contract.

(b) If at any time during the term of a contract, a contractor adds or changes any subcontractors, he or she shall promptly notify, in writing, the Department of Central Management Services or the higher education chief procurement officer, whichever is appropriate, and the responsible chief procurement officer, State purchasing officer, or their designee of the names and addresses and the expected amount of money each new or replaced subcontractor will receive.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ARTICLE 40
REAL PROPERTY AND CAPITAL IMPROVEMENT LEASES
30 ILCS 500/

APPLICABILITY

(30 ILCS 500/40-5)

Sec. 40-5. Applicability. All leases for real property or capital improvements, including office and storage space, buildings, and other facilities for State agencies, shall be procured in accordance with the provisions of this Article.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

AUTHORITY

(30 ILCS 500/40-10)

Sec. 40-10. Authority. State purchasing officers shall have the authority to procure leases for real property or capital improvements.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

METHOD OF SOURCE SELECTION

(30 ILCS 500/40-15)

Sec. 40-15. Method of source selection.

(a) Request for information. Except as provided in subsections (b) and (c), all State contracts for leases of real property or capital improvements shall be awarded by a request for information process in accordance with Section 40-20.

(b) Other methods. A request for information process need not be used in procuring any of the following leases:

(1) Property of less than 10,000 square feet.

(2) Rent of less than \$100,000 per year.

(3) Duration of less than one year that cannot be renewed.

(4) Specialized space available at only one location.

(5) Renewal or extension of a lease in effect before July 1, 1999; provided that:

(i) the chief procurement officer determines in writing that the renewal or extension is in the best interest of the State; (ii) the chief procurement officer submits his or her written determination and the renewal or extension to the Board; (iii) the Board does not object in writing to the renewal or extension within 30 days after its submission; and (iv) the chief procurement officer publishes the renewal or extension in the appropriate volume of the Procurement Bulletin.

(c) Leases with governmental units. Leases with other governmental units may be negotiated without using the request for information process when deemed by the chief procurement officer to be in the best interest of the State.

(Source: P.A. 93-133, eff. 1-1-04.)

REQUEST FOR INFORMATION

(30 ILCS 500/40-20)

Sec. 40-20. Request for information.

(a) Conditions for use. Leases shall be procured by request for information except as otherwise provided in Section 40-15.

(b) Form. A request for information shall be issued and shall include:

(1) the type of property to be leased;

(2) the proposed uses of the property;

- (3) the duration of the lease;
- (4) the preferred location of the property; and
- (5) a general description of the configuration desired.

(c) Public notice. Public notice of the request for information for the availability of real property to lease shall be published in the appropriate volume of the Illinois Procurement Bulletin at least 14 days before the date set forth in the request for receipt of responses and shall also be published in similar manner in a newspaper of general circulation in the community or communities where the using agency is seeking space.

(d) Response. The request for information response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the request. State purchasing officers may enter into discussions with respondents for the purpose of clarifying State needs and the information supplied by the respondents. On the basis of the information supplied and discussions, if any, a State purchasing officer shall make a written determination identifying the responses that meet the minimum criteria set forth in the request for information. Negotiations shall be entered into with all qualified respondents for the purpose of securing a lease that is in the best interest of the State. A written report of the negotiations shall be retained in the lease files and shall include the reasons for the final selection. All leases shall be reduced to writing and filed in accordance with the provisions of Section 20-80.

When the lowest response by price is not selected, the State purchasing officer shall forward to the chief procurement officer, along with the lease, notice of the identity of the lowest respondent by price and written reasons for the selection of a different response. The chief procurement officer shall publish the written reasons in the next volume of the Illinois Procurement Bulletin.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

LENGTH OF LEASES

(30 ILCS 500/40-25)

Sec. 40-25. Length of leases.

(a) Maximum term. Leases shall be for a term not to exceed 10 years and shall include a termination option in favor of the State after 5 years.

(b) Renewal. Leases may include a renewal option. An option to renew may be exercised only when a State purchasing officer determines in writing that renewal is in the best interest of the State and notice of the exercise of the option is published in the appropriate volume of the Procurement Bulletin at least 60 days prior to the exercise of the option.

(c) Subject to appropriation. All leases shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

PURCHASE OPTION

(30 ILCS 500/40-30)

Sec. 40-30. Purchase option. Initial leases of all space in entire, free-standing buildings shall include an option to purchase exercisable by the State, unless the purchasing officer determines that inclusion of such purchase option is not in the State's best interest and makes that determination in writing along with the reasons for making that determination and publishes the written determination in the appropriate volume of the Procurement Bulletin. Leases from governmental units and not-for-profit entities are exempt from the requirements of this Section.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

RENT WITHOUT OCCUPANCY

(30 ILCS 500/40-35)

Sec. 40-35. Rent without occupancy. Except when deemed by the Board to be in the best interest of the State, no State agency may incur rental obligations before occupying the space rented.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

LOCAL SITE PREFERENCES

(30 ILCS 500/40-40)

Sec. 40-40. Local site preferences. Upon the request of the chief executive officer of a unit of local government, leasing preferences may be given to sites located in enterprise zones, tax increment districts, or redevelopment districts.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

LEASES EXEMPT FROM ARTICLE

(30 ILCS 500/40-45)

Sec. 40-45. Leases exempt from Article. A lease entered into by the State under Section 7.4 of the State Property Control Act is not subject to the provisions of this Article.

(Source: P.A. 93-19, eff. 6-20-03.)

LEASES EXEMPT FROM ARTICLE

(30 ILCS 500/40-46)

Sec. 40-46. Leases exempt from Article. A lease entered into under Section 7.5 of the State Property Control Act is not subject to the provisions of this Article.

(Source: P.A. 93-19, eff. 6-20-03.)

ARTICLE 45 PREFERENCES 30 ILCS 500/

PROCUREMENT PREFERENCES

(30 ILCS 500/45-5)

Sec. 45-5. Procurement preferences. To promote business and employment opportunities in Illinois, procurement preferences are established and shall be applicable to any procurement made under this Code.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

RESIDENT BIDDERS

(30 ILCS 500/45-10)

Sec. 45-10. Resident bidders.

(a) Amount of preference. When a contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference as against a non-resident bidder from any state that gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the non-resident bidder. Further, if only non-resident bidders are bidding, the purchasing agency is within its right to specify that Illinois labor and manufacturing locations be used as a part of the manufacturing process, if applicable. This specification may be negotiated as part of the solicitation process.

(b) Residency. A resident bidder is a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State where it was actually transacting business on the date when any bid for a public contract is first advertised or announced. A resident bidder includes a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this

State where it was actually transacting business on the date when any bid for a public contract is first advertised or announced.

(c) Federal funds. This Section does not apply to any contract for any project as to which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

SOYBEAN OIL-BASED INK

(30 ILCS 500/45-15)

Sec. 45-15. Soybean oil-based ink. Contracts requiring the procurement of printing services shall specify the use of soybean oil-based ink unless a State purchasing officer determines that another type of ink is required to assure high quality and reasonable pricing of the printed product.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

RECYCLED MATERIALS

(30 ILCS 500/45-20)

Sec. 45-20. Recycled materials. When a public contract is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of products made of recycled materials may, on a pilot basis or in accordance with a pilot study, be given preference over other bidders unable to do so, provided that the cost included in the bid of products made of recycled materials is not more than 10% greater than the cost of products not made of recycled materials.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

RECYCLABLE PAPER

(30 ILCS 500/45-25)

Sec. 45-25. Recyclable paper. All paper purchased for use by State agencies must be recyclable paper unless recyclable paper cannot be used to meet the requirements of the State agencies. State agencies shall determine their paper requirements to allow the use of recyclable paper whenever possible, including without limitation using plain paper rather than colored paper that is not recyclable.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

CORRECTIONAL INDUSTRIES

(30 ILCS 500/45-30)

Sec. 45-30. Correctional industries. Notwithstanding anything to the contrary in other law, the chief procurement officer shall, in consultation with the Department of Corrections, determine which articles, materials, industry related services, food stuffs, and supplies that are produced or manufactured by persons confined in institutions and facilities of the Department of Corrections shall be given preference by purchasing agencies procuring those items. The chief procurement officer shall develop and distribute to the various purchasing and using agencies procedures for implementing this Section.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

SHELTERED WORKSHOPS FOR THE SEVERELY HANDICAPPED

(30 ILCS 500/45-35)

Sec. 45-35. Sheltered workshops for the severely handicapped.

(a) Qualification. Supplies and services may be procured without advertising or calling for bids from any qualified not-for-profit agency for the severely handicapped that:

(1) complies with Illinois laws governing private not-for-profit organizations;

(2) is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor; and

(3) meets the Illinois Department of Human Services just standards for rehabilitation facilities.

(b) Participation. To participate, the not-for-profit agency must have indicated an interest in providing the supplies and services, must meet the specifications and needs of the using agency, and must set a fair market price.

(c) Committee. There is created within the Department of Central Management Services a committee to facilitate the purchase of products and services of persons so severely handicapped by a physical or mental disability that they cannot engage in normal competitive employment. The committee shall consist of the Director of the Department of Central Management Services, the Director of the Department of Human Services, and 2 representatives from private business and 2 public members all appointed by the Governor who are knowledgeable in the needs and concerns of rehabilitation facilities in Illinois. The public members shall serve 2 year terms, commencing upon appointment and every 2 years thereafter. A public member may be reappointed, and vacancies may be filled by appointment for the completion of the term. The members shall serve without compensation but shall be reimbursed for expenses at a rate equal to that of State employees on a per diem basis by the Department of Central Management Services. All members shall be entitled to vote on issues before the committee.

The committee shall have the following powers and duties:

(1) To request from any State agency information as to product specification and service requirements in order to carry out its purpose.

(2) To meet quarterly or more often as necessary to carry out its purposes.

(3) To request a quarterly report from each participating qualified not-for-profit agency for the severely handicapped describing the volume of sales for each product or service sold under this Section.

(4) To prepare a report for the Governor annually.

(5) To prepare a publication that lists all supplies and services currently available from any qualified not-for-profit agency for the severely handicapped. This list and any revisions shall be distributed to all purchasing agencies.

(6) To encourage diversity in supplies and services provided by qualified not-for-profit agencies for the severely handicapped and discourage unnecessary duplication or competition among facilities.

(7) To develop guidelines to be followed by qualifying agencies for participation under the provisions of this Section. The guidelines shall be developed within 6 months after the effective date of this Code and made available on a nondiscriminatory basis to all qualifying agencies.

(8) To review all bids submitted under the provisions of this Section and reject any bid for any purchase that is determined to be substantially more than the purchase would have cost had it been competitively bid.

(d) Former committee. The committee created under subsection (c) shall replace the committee created under Section 7-2 of the Illinois Purchasing Act, which shall continue to operate until the appointments under subsection (c) are made.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

GAS MILEAGE

(30 ILCS 500/45-40)

Sec. 45-40. Gas mileage.

(a) Specification. Contracts for the purchase or lease of new passenger automobiles, other than station wagons, vans, four-wheel drive vehicles, emergency vehicles, and police and

fire vehicles, shall specify the procurement of a model that, according to the most current mileage study published by the U.S. Environmental Protection Agency, can achieve at least the minimum average fuel economy in miles per gallon imposed upon manufacturers of vehicles under Title V of The Motor Vehicle Information and Cost Savings Act.

(b) Exemptions. The State purchasing officer may exempt procurements from the requirement of subsection (a) when there is a demonstrated need, submitted in writing, for an automobile that does not meet the minimum average fuel economy standards. The chief procurement officer shall promulgate rules for determining need consistent with the intent of this Section.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

SMALL BUSINESSES

(30 ILCS 500/45-45)

Sec. 45-45. Small businesses.

(a) Set-asides. The chief procurement officer has authority to designate as small business set-asides a fair proportion of construction, supply, and service contracts for award to small businesses in Illinois. Advertisements for bids or offers for those contracts shall specify designation as small business set-asides. In awarding the contracts, only bids or offers from qualified small businesses shall be considered.

(b) Small business. "Small business" means a business that is independently owned and operated and that is not dominant in its field of operation. The chief procurement officer shall establish a detailed definition by rule, using in addition to the foregoing criteria other criteria, including the number of employees and the dollar volume of business. When computing the size status of a bidder, annual sales and receipts of the bidder and all of its affiliates shall be included. The maximum number of employees and the maximum dollar volume that a small business may have under the rules promulgated by the chief procurement officer may vary from industry to industry to the extent necessary to reflect differing characteristics of those industries, subject to the following limitations:

(1) No wholesale business is a small business if its annual sales for its most recently completed fiscal year exceed \$7,500,000.

(2) No retail business or business selling services is a small business if its annual sales and receipts exceed \$1,500,000.

(3) No manufacturing business is a small business if it employs more than 250 persons.

(4) No construction business is a small business if its annual sales and receipts exceed \$10,000,000.

(c) Fair proportion. For the purpose of subsection (a), for State agencies of the executive branch, a fair proportion of construction contracts shall be no less than 25% nor more than 40% of the annual total contracts for construction.

(d) Withdrawal of designation. A small business set-aside designation may be withdrawn by the purchasing agency when deemed in the best interests of the State. Upon withdrawal, all bids or offers shall be rejected, and the bidders or offerors shall be notified of the reason for rejection. The contract shall then be awarded in accordance with this Code without the designation of small business set-aside.

(e) Small business specialist. The chief procurement officer shall designate a State purchasing officer who will be responsible for engaging an experienced contract negotiator to serve as its small business specialist, whose duties shall include:

(1) Compiling and maintaining a comprehensive bidders list of small businesses. In this duty, he or she shall cooperate with the Federal Small Business Administration in locating potential sources for various products and services.

(2) Assisting small businesses in complying with the procedures for bidding on State contracts.

(3) Examining requests from State agencies for the purchase of property or services to help determine which invitations to bid are to be designated small business set-asides.

(4) Making recommendations to the chief procurement officer for the simplification of specifications and terms in order to increase the opportunities for small business participation.

(5) Assisting in investigations by purchasing agencies to determine the responsibility of bidders on small business set-asides.

(f) Small business annual report. The State purchasing officer designated under subsection (e) shall annually before December 1 report in writing to the General Assembly concerning the awarding of contracts to small businesses. The report shall include the total value of awards made in the preceding fiscal year under the designation of small business set-aside. The report shall also include the total value of awards made to businesses owned by minorities, females, and persons with disabilities, as defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, in the preceding fiscal year under the designation of small business set-aside.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act.
(Source: P.A. 92-60, eff. 7-12-01.)

ILLINOIS AGRICULTURAL PRODUCTS

(30 ILCS 500/45-50)

Sec. 45-50. Illinois agricultural products. In awarding contracts requiring the procurement of agricultural products, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of agricultural products grown in Illinois.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

CORN-BASED PLASTICS

(30 ILCS 500/45-55)

Sec. 45-55. Corn-based plastics. In awarding contracts requiring the procurement of plastic products, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of plastic products made from Illinois corn by-products.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

VEHICLES POWERED BY AGRICULTURAL COMMODITY-BASED FUEL

(30 ILCS 500/45-60)

Sec. 45-60. Vehicles powered by agricultural commodity-based fuel. In awarding contracts requiring the procurement of vehicles, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of vehicles powered by ethanol produced from Illinois corn or biodiesel fuels produced from Illinois soybeans.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ADDITIONAL PREFERENCES

(30 ILCS 500/45-65)

Sec. 45-65. Additional preferences. This Code is subject to applicable provisions of:

- (1) the Public Purchases in Other States Act;
- (2) the Illinois Mined Coal Act;
- (3) the Steel Products Procurement Act;
- (4) the Veterans Preference Act; and

(5) the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.
 (Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ARTICLE 50
PROCUREMENT ETHICS AND DISCLOSURE
30 ILCS 500/

PURPOSE

(30 ILCS 500/50-1)

Sec. 50-1. Purpose. It is the express duty of all chief procurement officers, State purchasing officers, and their designees to maximize the value of the expenditure of public moneys in procuring goods, services, and contracts for the State of Illinois and to act in a manner that maintains the integrity and public trust of State government. In discharging this duty, they are charged to use all available information, reasonable efforts, and reasonable actions to protect, safeguard, and maintain the procurement process of the State of Illinois.
 (Source: P.A. 90-572, eff. 2-6-98.)

BRIBERY

(30 ILCS 500/50-5)

Sec. 50-5. Bribery.

(a) Prohibition. No person or business shall be awarded a contract or subcontract under this Code who:

(1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or

(2) has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

(b) Businesses. No business shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

(1) the business has been finally adjudicated not guilty; or

(2) the business demonstrates to the governmental entity with which it seeks to contract, and that entity finds that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in paragraph (2) of subsection (a) of Section 5-4 of the Criminal Code of 1961.

(c) Conduct on behalf of business. For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

(d) Certification. Every bid submitted to and contract executed by the State shall contain a certification by the contractor that the contractor is not barred from being awarded a contract or subcontract under this Section. A contractor who makes a false statement, material to the certification, commits a Class 3 felony.

(Source: P.A. 90-572, eff. 2-6-98.)

FELONS

(30 ILCS 500/50-10)

Sec. 50-10. Felons. Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency from the date of conviction

until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.
(Source: P.A. 90-572, eff. 2-6-98.)

PROHIBITED BIDDERS AND CONTRACTORS

(30 ILCS 500/50-10.5)

Sec. 50-10.5. Prohibited bidders and contractors.

(a) Unless otherwise provided, no business shall bid or enter into a contract with the State of Illinois or any State agency if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of 5 years from the date of conviction.

(b) Every bid submitted to and contract executed by the State shall contain a certification by the bidder or contractor that the contractor is not barred from being awarded a contract under this Section and that the contractor acknowledges that the contracting State agency shall declare the contract void if the certification completed pursuant to this subsection (b) is false.

(c) If a business is not a natural person, the prohibition in subsection (a) applies only if:

(1) the business itself is convicted of a felony referenced in subsection (a); or

(2) the business is ordered to pay punitive damages based on the conduct of any officer, director, partner, or other managerial agent who has been convicted of a felony referenced in subsection (a).

(d) A natural person who is convicted of a felony referenced in subsection (a) remains subject to Section 50-10.

(Source: P.A. 93-600, eff. 1-1-04.)

DEBT DELINQUENCY

(30 ILCS 500/50-11)

Sec. 50-11. Debt delinquency.

(a) No person shall submit a bid for or enter into a contract with a State agency under this Code if that person knows or should know that he or she or any affiliate is delinquent in the payment of any debt to the State, unless the person or affiliate has entered into a deferred payment plan to pay off the debt. For purposes of this Section, the phrase "delinquent in the payment of any debt" shall be determined by the Debt Collection Board. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), a person controls an entity if the person owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(b) Every bid submitted to and contract executed by the State shall contain a certification by the bidder or contractor that the contractor and its affiliate is not barred from being awarded a contract under this Section and that the contractor acknowledges that the contracting State agency may declare the contract void if the certification completed pursuant to this subsection (b) is false.

(Source: P.A. 92-404, eff. 7-1-02; 93-25, eff. 6-20-03.)

COLLECTION AND REMITTANCE OF ILLINOIS USE TAX

(30 ILCS 500/50-12)

Sec. 50-12. Collection and remittance of Illinois Use Tax.

(a) No person shall enter into a contract with a State agency under this Code unless the person and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act regardless of whether the person or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(b) Every bid submitted and contract executed by the State shall contain a certification by the bidder or contractor that the bidder or contractor is not barred from bidding for or entering into a contract under subsection (a) of this Section and that the bidder or contractor acknowledges that the contracting State agency may declare the contract void if the certification completed pursuant to this subsection (b) is false.

(Source: P.A. 93-25, eff. 6-20-03.)

CONFLICTS OF INTEREST

(30 ILCS 500/50-13)

Sec. 50-13. Conflicts of interest.

(a) Prohibition. It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway Authority.

(b) Interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) is entitled to receive (i) more than 7 1/2% of the total distributable income or (ii) an amount in excess of the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.

(c) Combined interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) together with his or her spouse or minor children is entitled to receive (i) more than 15%, in the aggregate, of the total distributable income or (ii) an amount in excess of 2 times the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.

(c-5) Appointees and firms. In addition to any provisions of this Code, the interests of certain appointees and their firms are subject to Section 3A-35 of the Illinois Governmental Ethics Act.

(d) Securities. Nothing in this Section invalidates the provisions of any bond or other security previously offered or to be offered for sale or sold by or for the State of Illinois.

(e) Prior interests. This Section does not affect the validity of any contract made between the State and an officer or employee of the State or member of the General Assembly, his or her spouse, minor child, or other immediate family member living in his or her residence or any combination of those persons if that contract was in existence before his or her election or employment as an officer, member, or employee. The contract is voidable, however, if it cannot be completed within 365 days after the officer, member, or employee takes office or is employed.

(f) Exceptions.

(1) Public aid payments. This Section does not apply to payments made for a public aid recipient.

(2) Teaching. This Section does not apply to a contract for personal services as a teacher or school administrator between a member of the General Assembly or his or her spouse, or a State officer or employee or his or her spouse, and any school district, public community college district, the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governor State University, or Northeastern Illinois University.

(3) Ministerial duties. This Section does not apply to a contract for personal services of a wholly ministerial character, including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist, or telephone switchboard operator, made by a spouse or minor child of an elective or appointive State officer or employee or of a member of the General Assembly.

(4) Child and family services. This Section does not apply to payments made to a member of the General Assembly, a State officer or employee, his or her spouse or minor child acting as a foster parent, homemaker, advocate, or volunteer for or in behalf of a child or family served by the Department of Children and Family Services.

(5) Licensed professionals. Contracts with licensed professionals, provided they are competitively bid or part of a reimbursement program for specific, customary goods and services through the Department of Children and Family Services, the Department of Human Services, the Department of Public Aid, the Department of Public Health, or the Department on Aging.

(g) Penalty. A person convicted of a violation of this Section is guilty of a business offense and shall be fined not less than \$1,000 nor more than \$5,000.

(Source: P.A. 93-615, eff. 11-19-03.)

ENVIRONMENTAL PROTECTION ACT VIOLATIONS

(30 ILCS 500/50-14)

Sec. 50-14 50-12. Environmental Protection Act violations.

(a) Unless otherwise provided, no person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of Section 42 of the Environmental Protection Act shall do business with the State of Illinois or any State agency from the date of the order containing the finding of violation until 5 years after that date, unless the person or business can show that no person involved in the violation continues to have any involvement with the business.

(b) A person or business otherwise barred from doing business with the State of Illinois or any State agency under subsection (a) may be allowed to do business with the State of Illinois or any State agency if it is shown that there is no practicable alternative to the State to contracting with that person or business.

(c) Every bid submitted to and contract executed by the State shall contain a certification by the bidder or contractor that the bidder or contractor is not barred from being awarded a contract under this Section and that the contractor acknowledges that the contracting State

agency may declare the contract void if the certification completed pursuant to this subsection (c) is false.

(Source: P.A. 93-575, eff. 1-1-04; revised 9-24-03.)

NEGOTIATIONS

(30 ILCS 500/50-15)

Sec. 50-15. Negotiations.

(a) It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment.

(b) Any person convicted of a violation of this Section is guilty of a business offense and shall be fined not less than \$1,000 nor more than \$5,000.

(Source: P.A. 90-572, eff. 2-6-98.)

EXEMPTIONS

(30 ILCS 500/50-20)

Sec. 50-20. Exemptions. With the approval of the appropriate chief procurement officer involved, the Governor, or an executive ethics board or commission he or she designates, may exempt named individuals from the prohibitions of Section 50-13 when, in his, her, or its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. An exemption is effective only when it is filed with the Secretary of State and the Comptroller and includes a statement setting forth the name of the individual and all the pertinent facts that would make that Section applicable, setting forth the reason for the exemption, and declaring the individual exempted from that Section. Notice of each exemption shall be published in the Illinois Procurement Bulletin.

(Source: P.A. 90-572, eff. 2-6-98.)

INDUCEMENT

(30 ILCS 500/50-25)

Sec. 50-25. Inducement. Any person who offers or pays any money or other valuable thing to any person to induce him or her not to bid for a State contract or as recompense for not having bid on a State contract is guilty of a Class 4 felony. Any person who accepts any money or other valuable thing for not bidding for a State contract or who withholds a bid in consideration of the promise for the payment of money or other valuable thing is guilty of a Class 4 felony.

(Source: P.A. 90-572, eff. 2-6-98.)

REVOLVING DOOR PROHIBITION

(30 ILCS 500/50-30)

Sec. 50-30. Revolving door prohibition.

(a) Chief procurement officers, associate procurement officers, State purchasing officers, their designees whose principal duties are directly related to State procurement, and executive officers confirmed by the Senate are expressly prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the State agency most recently employing them in an affected position for a period of at least 6 months. The prohibition includes but is not limited to: lobbying the procurement process; specifying; bidding; proposing bid, proposal, or contract documents; on their own behalf or on behalf of any firm, partnership, association, or corporation. This subsection applies only to persons who terminate an affected position on or after January 15, 1999.

(b) In addition to any other provisions of this Code, employment of former State employees is subject to the State Officials and Employees Ethics Act.

(Source: P.A. 93-615, eff. 11-19-03.)

DISCLOSURE AND POTENTIAL CONFLICTS OF INTEREST

(30 ILCS 500/50-35)

Sec. 50-35. Disclosure and potential conflicts of interest.

(a) All offers from responsive bidders or offerors with an annual value of more than \$10,000 shall be accompanied by disclosure of the financial interests of the contractor, bidder, or proposer. The financial disclosure of each successful bidder or offeror shall become part of the publicly available contract or procurement file maintained by the appropriate chief procurement officer.

(b) Disclosure by the responsive bidders or offerors shall include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the bidding entity or its parent entity, whichever is less, unless the contractor or bidder (i) is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure, or (ii) is a privately held entity that is exempt from Federal 10k reporting but has more than 400 shareholders, in which case it may submit the information that Federal 10k reporting companies are required to report under 17 CFR 229.401 and list the names of any person or entity holding any ownership share that is in excess of 5% in place of the prescribed disclosure. The form of disclosure shall be prescribed by the applicable chief procurement officer and must include at least the names, addresses, and dollar or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having in addition any of the following relationships:

(1) State employment, currently or in the previous 3 years, including contractual employment of services.

(2) State employment of spouse, father, mother, son, or daughter, including contractual employment for services in the previous 2 years.

(3) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years.

(4) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

(5) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years.

(6) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

(7) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government.

(8) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter.

(9) Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

(10) Relationship to anyone; spouse, father, mother, son, or daughter; who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

(c) The disclosure in subsection (b) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the chief procurement officers, State purchasing officers, their designees, and executive officers so they may adequately discharge their duty to protect the State.

(d) In the case of any contract for personal services in excess of \$50,000; any contract competitively bid in excess of \$250,000; any other contract in excess of \$50,000; when a potential for a conflict of interest is identified, discovered, or reasonably suspected it shall be reviewed and commented on in writing by the Governor of the State of Illinois, or by an executive ethics board or commission he or she might designate. The comment shall be returned to the responsible chief procurement officer who must rule in writing whether to void or allow the contract, bid, offer, or proposal weighing the best interest of the State of Illinois. The comment and determination shall become a publicly available part of the contract, bid, or proposal file.

(e) These thresholds and disclosure do not relieve the chief procurement officer, the State purchasing officer, or their designees from reasonable care and diligence for any contract, bid, offer, or proposal. The chief procurement officer, the State purchasing officer, or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.

(f) Inadvertent or accidental failure to fully disclose shall render the contract, bid, proposal, or relationship voidable by the chief procurement officer if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, bids, proposals, or relationships with the State for a period of up to 2 years.

(g) Intentional, willful, or material failure to disclose shall render the contract, bid, proposal, or relationship voidable by the chief procurement officer if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, bids, proposals, or relationships for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented on in writing by the Governor of the State of Illinois, or by an executive ethics board or commission he or she might designate. The comment shall be returned to the responsible chief procurement officer who must rule in writing whether and when to reinstate.

(h) In addition, all disclosures shall note any other current or pending contracts, proposals, leases, or other ongoing procurement relationships the bidding, proposing, or offering entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal, lease, or other relationship.

(Source: P.A. 90-572, eff. 2-6-98; 91-146, eff. 7-16-99.)

REPORTING ANTICOMPETITIVE PRACTICES

(30 ILCS 500/50-40)

Sec. 50-40. Reporting anticompetitive practices. When, for any reason, any vendor, bidder, contractor, chief procurement officer, State purchasing officer, designee, elected official, or State employee suspects collusion or other anticompetitive practice among any bidders, offerors, contractors, proposers, or employees of the State, a notice of the relevant facts shall be transmitted to the Attorney General and the chief procurement officer.

(Source: P.A. 90-572, eff. 2-6-98.)

CONFIDENTIALITY

(30 ILCS 500/50-45)

Sec. 50-45. Confidentiality. Any chief procurement officer, State purchasing officer, designee, or executive officer who willfully uses or allows the use of specifications, competitive bid documents, proprietary competitive information, proposals, contracts, or selection information to compromise the fairness or integrity of the procurement, bidding, or contract process shall be subject to immediate dismissal, regardless of the Personnel Code, any contract, or any collective bargaining agreement, and may in addition be subject to criminal prosecution.

(Source: P.A. 90-572, eff. 2-6-98.)

INSIDER INFORMATION

(30 ILCS 500/50-50)

Sec. 50-50. Insider information. It is unlawful for any current or former elected or appointed State official or State employee to knowingly use confidential information available only by virtue of that office or employment for actual or anticipated gain for themselves or another person.

(Source: P.A. 90-572, eff. 2-6-98.)

SUPPLY INVENTORY

(30 ILCS 500/50-55)

Sec. 50-55. Supply inventory. Every State agency shall inventory or stock no more than a 12-month need of equipment, supplies, commodities, articles, and other items, except as otherwise authorized by the State agency's regulations. Every State agency shall periodically review its inventory to ensure compliance with this Section. If, upon review, an agency determines it has more than a 12-month supply of any equipment, supplies, commodities, or other items, the agency shall undertake transfers of the oversupplied items or other action necessary to maintain compliance with this Section. This Section shall not apply to lifesaving medications, mechanical spare parts, and items for which the supplier requires a minimum order stipulation.

(Source: P.A. 90-572, eff. 2-6-98.)

VOIDABLE CONTRACTS

(30 ILCS 500/50-60)

Sec. 50-60. Voidable contracts.

(a) If any contract is entered into or purchase or expenditure of funds is made in violation of this Code or any other law, the contract may be declared void by the chief procurement officer or may be ratified and affirmed, provided the chief procurement officer determines that ratification is in the best interests of the State. If the contract is ratified and affirmed, it shall be without prejudice to the State's rights to any appropriate damages.

(b) If, during the term of a contract, the contracting agency determines that the contractor is delinquent in the payment of debt as set forth in Section 50-11 of this Code, the State agency may declare the contract void if it determines that voiding the contract is in the best interests of the State. The Debt Collection Board shall adopt rules for the implementation of this subsection (b).

(c) If, during the term of a contract, the contracting agency determines that the contractor is in violation of Section 50-10.5 of this Code, the contracting agency shall declare the contract void.

(Source: P.A. 92-404, eff. 7-1-02; 93-600, eff. 1-1-04.)

CONTRACTOR SUSPENSION

(30 ILCS 500/50-65)

Sec. 50-65. Contractor suspension. Any contractor may be suspended for violation of this Code or for failure to conform to specifications or terms of delivery. Suspension shall be for cause and may be for a period of up to 10 years at the discretion of the applicable chief procurement officer. Contractors may be debarred in accordance with rules promulgated by the chief procurement officer or as otherwise provided by law.

(Source: P.A. 93-77, eff. 7-2-03.)

ADDITIONAL PROVISIONS

(30 ILCS 500/50-70)

Sec. 50-70. Additional provisions. This Code is subject to applicable provisions of the following Acts:

- (1) Article 33E of the Criminal Code of 1961;
- (2) the Illinois Human Rights Act;
- (3) the Discriminatory Club Act;
- (4) the Illinois Governmental Ethics Act;
- (5) the State Prompt Payment Act;
- (6) the Public Officer Prohibited Activities Act; and
- (7) the Drug Free Workplace Act.

(Source: P.A. 90-572, eff. 2-6-98.)

OTHER VIOLATIONS

(30 ILCS 500/50-75)

Sec. 50-75. Other violations.

(a) Any chief procurement officer, State purchasing officer, or designee who willfully violates or allows the violation of this Code shall be subject to immediate dismissal, regardless of the Personnel Code, any contract, or any collective bargaining agreement.

(b) Except as otherwise provided in this Code, whoever violates this Code or the rules promulgated under it is guilty of a Class A misdemeanor.

(Source: P.A. 90-572, eff. 2-6-98.)

ARTICLE 53 CONCESSIONS 30 ILCS 500/

CONCESSIONS AND LEASES OF STATE PROPERTY

(30 ILCS 500/53-10)

Sec. 53-10. Concessions and leases of State property.

(a) Except for property under the jurisdiction of a public institution of higher education, concessions, including the assignment, license, sale, or transfer of interests in or rights to discoveries, inventions, patents, or copyrightable works, may be entered into by the State agency with jurisdiction over the property, whether tangible or intangible.

(b) Except for property under the jurisdiction of a public institution of higher education, all concessions shall be reduced to writing and shall be awarded under the provisions of Article 20, except that the contract shall be awarded to the highest and best bidder or offeror.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

CONTRACT DURATION AND TERMS

(30 ILCS 500/53-20)

Sec. 53-20. Contract duration and terms. Except for property under the jurisdiction of a public institution of higher education, the duration and terms of concessions and leases of State property shall be in accordance with this Code or other applicable law.
(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

PUBLIC INSTITUTIONS OF HIGHER EDUCATION

(30 ILCS 500/53-25)

Sec. 53-25. Public institutions of higher education. Each public institution of higher education may enter into concessions, including the assignment, license, sale, or transfer of interests in or rights to discoveries, inventions, patents, or copyrightable works, for property, whether tangible or intangible, over which it has jurisdiction. Concessions shall be reduced to writing and shall be awarded at the discretion of the institution with jurisdiction over the property. The duration and terms of concessions and leases shall be at the discretion of the institution with jurisdiction over the property. Notice of the award of a concession shall be published in the higher education volume of the Illinois Procurement Bulletin.
(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

TOLL HIGHWAY AUTHORITY

(30 ILCS 500/53-30)

Sec. 53-30. Illinois State Toll Highway Authority. The Illinois State Toll Highway Authority may enter into contracts, leases, licenses, or agreements for a term not to exceed 25 years that relate to the grant of concessions or the leasing of any part of a toll highway for motor fuel service stations and facilities, garages, stores, or restaurants. Nothing in this Section shall be construed to apply to properties in which the Illinois State Toll Highway Authority is the lessee.
(Source: P.A. 91-684, eff. 1-26-00.)

ARTICLE 55 MISCELLANEOUS PROVISIONS 30 ILCS 500/

REFERENCES TO REPEALED PROVISIONS

(30 ILCS 500/55-5)

Sec. 55-5. References to repealed provisions. After the effective date of this Act, all references to the provisions of law repealed by this Act shall be construed, where necessary and appropriate, as references to the Illinois Procurement Code.
(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

EXCLUSIVE EXERCISE OF POWERS

(30 ILCS 500/55-10)

Sec. 55-10. Exclusive exercise of powers. On and after 120 days following the effective date of this Act, the powers granted under this Code shall be exercised exclusively as granted under this Code, and no State agency may concurrently exercise any such power, unless specifically authorized otherwise by a later enacted law. This Code is not intended to impair any contract entered into before the effective date of this Act.
(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

SEVERABILITY

(30 ILCS 500/55-15)

Sec. 55-15. Severability. If any provision of this Code or any application of it to any person or circumstance is held invalid, that invalidity shall not affect other provisions or

applications of this Code that can be given effect without the invalid provision or application, and to this end the provisions of this Code are declared to be severable.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

ARTICLE 99
EFFECTIVE DATE
30 ILCS 500/

EFFECTIVE DATE AND TRANSITION

(30 ILCS 500/99-5)

Sec. 99-5. Effective date and transition. This Article, Sections 1-15 through 1-15.115 of Article 1, and Article 50 take effect upon becoming law. Articles 1 through 45 and 53 through 95 take effect January 1, 1998, solely for the purpose of allowing the promulgation of rules to implement the Illinois Procurement Code. The Procurement Policy Board established in Article 5 may be appointed as of January 1, 1998, and until July 1, 1998, shall act only to review proposed purchasing rules. Articles 1 through 45 and 53 through 95 for all other purposes take effect on July 1, 1998.

(Source: P.A. 90-572, eff. 2-6-98.)

PUBLIC PURCHASES IN OTHER STATES ACT

30 ILCS 520/

SHORT TITLE

(30 ILCS 520/0.01) (from Ch. 29, par. 39.9)

Sec. 0.01. Short title. This Act may be cited as the Public Purchases in Other States Act.

(Source: P.A. 86-1324.)

DEFINITION

(30 ILCS 520/1) (from Ch. 29, par. 40)

Sec. 1. The term "institution," as used in this Act, means all institutions maintained by the State or any political subdivision thereof or municipal corporation therein, including municipally-owned public utility plants.

(Source: Laws 1939, p. 1155.)

PURCHASE OF COMMODITIES FROM OTHER STATES

(30 ILCS 520/2) (from Ch. 29, par. 41)

Sec. 2. The board of trustees or other officer or officers in charge of every institution in the State of Illinois, which is supported in whole or in part by public funds, who are authorized or required to purchase commodities for use in the operation of any such institution, shall, in purchasing such commodities from vendors in any other state, give preference to vendors in those states whose preference laws do not prohibit the purchase by the public institutions of such states of commodities grown or produced in Illinois.

(Source: Laws 1939, p. 1155.)

VIOLATION

(30 ILCS 520/3) (from Ch. 29, par. 42)

Sec. 3.

Any trustee or officer who violates any provision of this Act shall be guilty of a petty offense.

(Source: P.A. 77-2368.)

GOVERNMENTAL JOINT PURCHASING ACT

30 ILCS 525/

SHORT TITLE

(30 ILCS 525/0.01) (from Ch. 85, par. 1600)

Sec. 0.01. Short title. This Act may be cited as the Governmental Joint Purchasing Act.
(Source: P.A. 86-1324.)

DEFINITION

(30 ILCS 525/1) (from Ch. 85, par. 1601)

Sec. 1. For the purposes of this Act, "governmental unit" means State of Illinois, any public authority which has the power to tax, or any other public entity created by statute.
(Source: P.A. 86-769.)

PROVISIONS OF JOINT PURCHASES

(30 ILCS 525/2) (from Ch. 85, par. 1602)

Sec. 2. (a) Any governmental unit may purchase personal property, supplies and services jointly with one or more other governmental units. All such joint purchases shall be by competitive bids as provided in Section 4 of this Act. The provisions of any other acts under which a governmental unit operates which refer to purchases and procedures in connection therewith shall be superseded by the provisions of this Act when the governmental units are exercising the joint powers created by this Act.

(b) Any not-for-profit agency that qualifies under Section 7-1 of the Illinois Purchasing Act and that either (1) acts pursuant to a board established by or controlled by a unit of local government or (2) receives grant funds from the State or from a unit of local government, shall be eligible to participate in contracts established by the State.
(Source: P.A. 87-960.)

AGREEMENT, DISTRIBUTION, AND CREDIT OR LIABILITY

(30 ILCS 525/3) (from Ch. 85, par. 1603)

Sec. 3. Any agreement of the governmental units which desire to make joint purchases, one of the governmental units shall conduct the letting of bids. Where the State of Illinois is a party to the joint purchase agreement, the Department of Central Management Services shall conduct the letting of bids. Expenses of such bid-letting may be shared by the participating governmental units in proportion to the amount of personal property, supplies or services each unit purchases.

When the State of Illinois is a party to the joint purchase agreement, the acceptance of bids shall be in accordance with the Illinois Procurement Code and rules promulgated under that Code. When the State of Illinois is not a party to the joint purchase agreement, the acceptance of bids shall be governed by the agreement.

The personal property, supplies or services involved shall be distributed or rendered directly to each governmental unit taking part in the purchase. The person selling the personal property, supplies or services may bill each governmental unit separately for its proportionate share of the cost of the personal property, supplies or services purchased.

The credit or liability of each governmental unit shall remain separate and distinct. Disputes between bidders and governmental units shall be resolved between the immediate parties.

(Source: P.A. 90-572, eff. date – See Sec. 99-5.)

REQUIREMENTS OF COMPETITIVE SEALED BIDS

(30 ILCS 525/4) (from Ch. 85, par. 1604)

Sec. 4. The purchases of all personal property, supplies and services under this Act shall be based on competitive, sealed bids. Bids shall be solicited by public notice inserted at least once in a newspaper of general circulation in one of the counties where the materials are to be used and at least 5 calendar days before the final date of submitting bids. Where the State of Illinois is a party to the joint purchase agreement, public notice soliciting the bids shall be inserted in the official newspaper of the State. Such notice shall include a general description of the personal property, supplies or services to be purchased and shall state where all blanks and specifications may be obtained and the time and place for the opening of bids. The governmental unit conducting the bid-letting may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notices on a public bulletin board in its office.

All purchases, orders or contracts shall be awarded to the lowest responsible bidder, taking into consideration the qualities of the articles or services supplied, their conformity with the specifications, their suitability to the requirements of the participating governmental units and the delivery terms.

Where the State of Illinois is not a party, all bids may be rejected and new bids solicited if one or more of the participating governmental units believes the public interest may be served thereby. Each bid, with the name of the bidder, shall be entered on a record, which record with the successful bid indicated thereon shall, after the award of the purchase or order or contract, be open to public inspection. A copy of all contracts shall be filed with the purchasing agent or clerk or secretary of each participating governmental unit.

(Source: P. A. 76-641.)

COMPLIANCE WITH "LOCAL GOVERNMENT PROMPT PAYMENT ACT"

(30 ILCS 525/4.1) (from Ch. 85, par. 1604.1)

Sec. 4.1. Purchases made pursuant to this Act shall be made in compliance with the "Local Government Prompt Payment Act", approved by the Eighty-fourth General Assembly.

(Source: P.A. 84-731.)

PROCUREMENT PROCEDURES

(30 ILCS 525/4.2) (from Ch. 85, par. 1604.2)

Sec. 4.2. Any governmental unit may, without violating any bidding requirement otherwise applicable to it, procure personal property, supplies and services under any contract let by the State pursuant to lawful procurement procedures.

(Source: P.A. 87-960.)

NOT APPLICABLE

(30 ILCS 525/5) (from Ch. 85, par. 1605)

Sec. 5. The provisions of this Act shall not apply to public utility services.

(Source: Laws 1961, p. 3382.)

POWERS AND AUTHORITY

(30 ILCS 525/6) (from Ch. 85, par. 1606)

Sec. 6. The powers and authority conferred by this Act shall be construed as in addition and supplemental to powers or authority conferred by any other law and nothing in this Act shall be construed as limiting any other powers or authority of any public agency.

(Source: P. A. 76-641.)

ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING QUALIFICATIONS BASED SELECTION ACT 30 ILCS 535/

SHORT TITLE

(30 ILCS 535/1) (from Ch. 127, par. 4151-1)

Sec. 1. Short title. This Act may be cited as the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(Source: P.A. 87-673.)

STATE POLICY ON PROCUREMENT OF ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING SERVICES

(30 ILCS 535/5) (from Ch. 127, par. 4151-5)

Sec. 5. State policy on procurement of architectural, engineering, and land surveying services. It is the policy of State agencies of this State to publicly announce all requirements for architectural, engineering, and land surveying services, to procure these services on the basis of demonstrated competence and qualifications, to negotiate contracts at fair and reasonable prices, and to authorize the Department of Professional Regulation to enforce the provisions of Section 65 of this Act.

(Source: P.A. 87-673.)

FEDERAL REQUIREMENTS

(30 ILCS 535/10) (from Ch. 127, par. 4151-10)

Sec. 10. Federal requirements. In the procurement of architectural, engineering, and land surveying services and in the awarding of contracts, a State agency may comply with federal law and regulations including, but not limited to, Public Law 92-582 (Federal Architect-Engineer Selection Law, Brooks Law, 40 U.S.C. 541) and take all necessary steps to adapt its rules, specifications, policies, and procedures accordingly to remain eligible for federal aid.

(Source: P.A. 87-673.)

DEFINITIONS

(30 ILCS 535/15) (from Ch. 127, par. 4151-15)

Sec. 15. Definitions. As used in this Act:

"Architectural services" means any professional service as defined in Section 5 of the Illinois Architecture Practice Act of 1989.

"Engineering services" means any professional service as defined in Section 4 of the Professional Engineering Practice Act of 1989 or Section 5 of the Structural Engineering Practice Act of 1989.

"Firm" means any individual, sole proprietorship, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, engineering, or land surveying and provide those services.

"Land surveying services" means any professional service as defined in Section 5 of the Illinois Professional Land Surveyor Act of 1989.

"Project" means any capital improvement project or any design, study, plan, survey, or new or existing program activity of a State agency, including development of new or existing programs that require architectural, engineering, or land surveying services.

"State agency" means any department, commission, council, board, bureau, committee, institution, agency, university, government corporation, authority, or other establishment or official of this State.

(Source: P.A. 91-91, eff. 1-1-00.)

PREQUALIFICATION

(30 ILCS 535/20) (from Ch. 127, par. 4151-20)

Sec. 20. Prequalification. A State agency shall establish procedures to prequalify firms seeking to provide architectural, engineering, and land surveying services or may use prequalification lists from other State agencies to meet the requirements of this Section.

(Source: P.A. 87-673.)

PUBLIC NOTICE

(30 ILCS 535/25) (from Ch. 127, par. 4151-25)

Sec. 25. Public notice. Whenever a project requiring architectural, engineering, or land surveying services is proposed for a State agency, the State agency shall provide no less than a 14 day advance notice published in a professional services bulletin or advertised within the official State newspaper setting forth the projects and services to be procured. The professional services bulletin shall be available electronically and may be available in print. The professional services bulletin shall include a description of each project and shall state the time and place for interested firms to submit a letter of interest and, if required by the public notice, a statement of qualifications.

(Source: P.A. 92-345, eff. 8-10-01.)

EVALUATION PROCEDURE

(30 ILCS 535/30) (from Ch. 127, par. 4151-30)

Sec. 30. Evaluation procedure. A State agency shall evaluate the firms submitting letters of interest and other prequalified firms, taking into account qualifications; and the State agency may consider, but shall not be limited to considering, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm and any other qualifications based factors as the State agency may determine in writing are applicable. The State agency may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project and ability to furnish the required services.

A State agency shall establish a committee to select firms to provide architectural, engineering, and land surveying services. A selection committee may include at least one public member nominated by a statewide association of the profession affected. The public member may not be employed or associated with any firm holding a contract with the State agency nor may the public member's firm be considered for a contract with that State agency while he or she is serving as a public member of the committee.

In no case shall a State agency, prior to selecting a firm for negotiation under Section 40, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

(Source: P.A. 91-357, eff. 7-29-99.)

SELECTION PROCEDURE

(30 ILCS 535/35) (from Ch. 127, par. 4151-35)

Sec. 35. Selection procedure. On the basis of evaluations, discussions, and any presentations, the State agency shall select no less than 3 firms it determines to be qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The State agency shall then contact the firm ranked most preferred to negotiate a contract at a fair and reasonable compensation. If fewer than 3 firms submit letters of interest and the State agency determines that one or both of those firms are so qualified, the State agency may proceed to negotiate a contract under Section 40. The decision of the State agency shall be final and binding.

(Source: P.A. 87-673.)

CONTRACT NEGOTIATION

(30 ILCS 535/40) (from Ch. 127, par. 4151-40)

Sec. 40. Contract negotiation.

(a) The State agency shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified firm at compensation that the State agency determines in writing to be fair and reasonable. In making this decision, the State agency shall take into account the estimated value, scope, complexity, and professional nature of the services to be rendered. In no case may a State agency establish a maximum overhead rate or other payment formula designed to eliminate firms from contention or restrict competition or negotiation of fees.

(b) If the State agency is unable to negotiate a satisfactory contract with the firm that is most preferred, negotiations with that firm shall be terminated. The State agency shall then begin negotiations with the firm that is next preferred. If the State agency is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be terminated. The State agency shall then begin negotiations with the firm that is next preferred.

(c) If the State agency is unable to negotiate a satisfactory contract with any of the selected firms, the State agency shall re-evaluate the architectural, engineering, or land surveying services requested, including the estimated value, scope, complexity, and fee requirements. The State agency shall then compile a second list of not less than 3 qualified firms and proceed in accordance with the provisions of this Act.

(d) A firm negotiating a contract with a State agency shall negotiate subcontracts for architectural, engineering, and land surveying services at compensation that the firm determines in writing to be fair and reasonable based upon a written description of the scope of the proposed services.

(Source: P.A. 87-673.)

SMALL CONTRACTS

(30 ILCS 535/45) (from Ch. 127, par. 4151-45)

Sec. 45. Small contracts. The provisions of Sections 25, 30, and 35 do not apply to architectural, engineering, and land surveying contracts with an estimated basic professional services fee of less than \$25,000.

(Source: P.A. 92-861, eff. 1-3-03.)

EMERGENCY SERVICES

(30 ILCS 535/50) (from Ch. 127, par. 4151-50)

Sec. 50. Emergency services. Sections 25, 30, and 35 do not apply in the procurement of architectural, engineering, and land surveying services by State agencies (i) when an agency determines in writing that it is in the best interest of the State to proceed with the immediate selection of a firm or (ii) in emergencies when immediate services are necessary to protect the public health and safety, including, but not limited to, earthquake, tornado, storm, or natural or man-made disaster.

(Source: P.A. 87-673.)

FIRM PERFORMANCE EVALUATION

(30 ILCS 535/55) (from Ch. 127, par. 4151-55)

Sec. 55. Firm performance evaluation. Each State agency shall evaluate the performance of each firm upon completion of a contract. That evaluation shall be made available to the firm who may submit a written response, with the evaluation and response

retained solely by the agency. The evaluation and response shall not be made available to any other person or firm and is exempt from disclosure under the Freedom of Information Act.

(Source: P.A. 87-673.)

CERTIFICATE OF COMPLIANCE

(30 ILCS 535/60) (from Ch. 127, par. 4151-60)

Sec. 60. Certificate of compliance. Each contract for architectural, engineering, and land surveying services by a State agency shall contain a certificate signed by a representative of the State agency and the firm that the provisions of this Act were complied with.

(Source: P.A. 87-673.)

SCOPE

(30 ILCS 535/65) (from Ch. 127, par. 4151-65)

Sec. 65. Scope. No person, corporation, or partnership licensed or registered under the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, or the Illinois Professional Land Surveyor Act of 1989 shall engage in any act or conduct, or be a party to any contract, or agreement, in violation of the provisions of this Act.

(Source: P.A. 91-91, eff. 1-1-00.)

ENFORCEMENT

(30 ILCS 535/70) (from Ch. 127, par. 4151-70)

Sec. 70. Enforcement. Any contract or agreement made in violation of this Act after the effective date of this Act, except a supplement or extension of an existing contract, is void and unenforceable, and the Comptroller and Treasurer of the State of Illinois shall not process any payment claims or checks for any contract or agreement made in violation of this Act.

(Source: P.A. 87-673.)

CONTRACTING A DESIGN/BUILD PROJECT

(30 ILCS 535/75) (from Ch. 127, par. 4151-75)

Sec. 75. Nothing in this Act shall be deemed to prohibit a State agency from contracting for a design/build project.

(Source: P.A. 87-673.)

AFFIRMATIVE ACTION

(30 ILCS 535/80) (from Ch. 127, par. 4151-80)

Sec. 80. Affirmative action. Nothing in this Act shall be deemed to prohibit or restrict agencies from establishing or maintaining affirmative action contracting goals for minorities or women, or small business setaside programs, now or hereafter established by law, rules and regulations, or executive order.

(Source: P.A. 87-673.)

STATE PROMPT PAYMENT ACT

30 ILCS 540/

SHORT TITLE

(30 ILCS 540/0.01) (from Ch. 127, par. 132.400)

Sec. 0.01. Short title. This Act may be cited as the State Prompt Payment Act.

(Source: P.A. 86-1324.)

DEFINITIONS

(30 ILCS 540/1) (from Ch. 127, par. 132.401)

Sec. 1. This Act applies to any State official or agency authorized to provide for payment from State funds, by virtue of any appropriation of the General Assembly, for goods or services furnished to the State.

For purposes of this Act, "goods or services furnished to the State" include but are not limited to covered health care provided to eligible members and their covered dependents in accordance with the State Employees Group Insurance Act of 1971, including coverage through a physician-owned health maintenance organization under Section 6.1 of that Act.

For the purposes of this Act, "appropriate State official or agency" is defined as the Director or Chief Executive or his designee of that State agency or department or facility of such agency or department. With respect to covered health care provided to eligible members and their dependents in accordance with the State Employees Group Insurance Act of 1971, "appropriate State official or agency" also includes an administrator of a program of health benefits under that Act.

As used in this Act, "eligible member" means a member who is eligible for health benefits under the State Employees Group Insurance Act of 1971, and "member" and "dependent" have the meanings ascribed to those terms in that Act.

As used in this Act, "a proper bill or invoice" means a bill or invoice that includes the information necessary for processing the payment as may be specified by a State agency and in rules adopted in accordance with this Act.

(Source: P.A. 91-266, eff. 7-23-99; 92-384, eff. 7-1-02.)

REPEALED

(30 ILCS 540/2) (from Ch. 127, par. 132.402)

Sec. 2. (Repealed).

(Source: Repealed by P.A. 87-1232.)

REPEALED

(30 ILCS 540/2.1) (from Ch. 127, par. 132.402.1)

Sec. 2.1. (Repealed).

(Source: Repealed by P.A. 87-1232.)

REPEALED

(30 ILCS 540/3) (from Ch. 127, par. 132.403)

Sec. 3. (Repealed).

(Source: Repealed by P.A. 87-1232.)

INTEREST PENALTIES

(30 ILCS 540/3-1) (from Ch. 127, par. 132.403-1)

Sec. 3-1. The Illinois Court of Claims shall, in its investigation of payments due claimants, provide for interest penalties as prescribed in this Act.

(Source: P.A. 87-773; 87-1232.)

LATE PAYMENTS AND INTEREST PENALTIES

(30 ILCS 540/3-2) (from Ch. 127, par. 132.403-2)

Sec. 3-2. Beginning July 1, 1993, in any instance where a State official or agency is late in payment of a vendor's bill or invoice for goods or services furnished to the State, as defined in Section 1, properly approved in accordance with rules promulgated under Section 3-3, the State official or agency shall pay interest to the vendor in accordance with the following:

(1) Any bill approved for payment under this Section must be paid or the payment issued to the payee within 60 days of receipt of a proper bill or invoice. If payment is not issued to the payee within this 60 day period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this 60 day period, until final payment is made.

(1.1) A State agency shall review in a timely manner each bill or invoice after its receipt. If the State agency determines that the bill or invoice contains a defect making it unable to process the payment request, the agency shall notify the vendor requesting payment as soon as possible after discovering the defect pursuant to rules promulgated under Section 3-3. The notice shall identify the defect and any additional information necessary to correct the defect.

(2) Where a State official or agency is late in payment of a vendor's bill or invoice properly approved in accordance with this Act, and different late payment terms are not reduced to writing as a contractual agreement, the State official or agency shall automatically pay interest penalties required by this Section amounting to \$50 or more to the appropriate vendor. Each agency shall be responsible for determining whether an interest penalty is owed and for paying the interest to the vendor. For interest of at least \$5 but less than \$50, the vendor must initiate a written request for the interest penalty when such interest is due and payable. The Department of Central Management Services and the State Comptroller shall jointly promulgate rules establishing the conditions under which interest of less than \$5 may be claimed and paid. In the event an individual has paid a vendor for services in advance, the provisions of this Section shall apply until payment is made to that individual.

(Source: P.A. 92-384, eff. 7-1-02.)

RULES AND POLICIES

(30 ILCS 540/3-3) (from Ch. 127, par. 132.403-3)

Sec. 3-3. The State Comptroller and the Department of Central Management Services shall jointly promulgate rules and policies to govern the uniform application of this Act. These rules and policies shall include procedures and time frames for approving a bill or invoice from a vendor for goods or services furnished to the State. These rules and policies shall provide for procedures and time frames applicable to payment plans as may be agreed upon between State agencies and vendors. These rules and policies shall be binding on all officials and agencies under this Act's jurisdiction. These rules and policies may be made effective no earlier than July 1, 1993.

(Source: P.A. 92-384, eff. 7-1-02.)

RECORDING INTEREST PENALTY PAYMENTS

(30 ILCS 540/3-4)

Sec. 3-4. The State Comptroller must specify the manner in which State agencies shall record interest penalty payments made under this Act. The State Comptroller may require vouchers submitted for payment, including submission by electronic or other means approved by the Comptroller, to indicate the appropriate date from which interest penalties may be calculated as required under this Act.

(Source: P.A. 92-384, eff. 7-1-02.)

POWER TO EXAMINE VOUCHERS

(30 ILCS 540/4) (from Ch. 127, par. 132.404)

Sec. 4. Nothing in this Act shall be construed to deprive the Comptroller of his power to examine vouchers as specified in the State Comptroller Act.

(Source: P.A. 92-384, eff. 7-1-02.)

INDICATION OF INTEREST ON INVOICE OR VOUCHER

(30 ILCS 540/5) (from Ch. 127, par. 132.405)

Sec. 5. The State remittance shall indicate that payment of interest may be available for failure to comply with this Act.

(Source: P.A. 92-384, eff. 7-1-02.)

WAIVER OF LATE PAYMENT PENALTY; VENDOR

(30 ILCS 540/6) (from Ch. 127, par. 132.406)

Sec. 6. A State official or agency may not request any vendor or contractor to waive his rights, under this Act, to recover a penalty for late payment as a condition of, or inducement to enter into, any contract for goods or services.

(Source: P.A. 87-773.)

PAYMENT REQUIREMENTS

(30 ILCS 540/7) (from Ch. 127, par. 132.407)

Sec. 7. When a contractor receives any payment, the contractor shall pay each subcontractor and material supplier in proportion to the work completed by each subcontractor and material supplier their application less any retention. If the contractor receives less than the full payment due under the public construction contract, the contractor shall be obligated to disburse on a pro rata basis those funds received, with the contractor, subcontractors and material suppliers each receiving a prorated portion based on the amount of payment. When, however, the public owner does not release the full payment due under the contract because there are specific areas of work or materials the contractor is rejecting or because the contractor has otherwise determined such areas are not suitable for payment, then those specific subcontractors or suppliers involved shall not be paid for that portion of work rejected or deemed not suitable for payment and all other subcontractors and suppliers shall be paid in full.

If the contractor, without reasonable cause, fails to make any payment to his subcontractors and material suppliers within 15 days after receipt of payment under the public construction contract, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 15-day period until fully paid. This subsection shall also apply to any payments made by subcontractors and material suppliers to their subcontractors and material suppliers and to all payments made to lower tier subcontractors and material suppliers throughout the contracting chain.

(Source: P.A. 87-773.)

PUBLIC CONTRACT FRAUD ACT

30 ILCS 545/

SHORT TITLE

(30 ILCS 545/0.01) (from Ch. 127, par. 132.50)

Sec. 0.01. Short title. This Act may be cited as the Public Contract Fraud Act.

(Source: P.A. 86-1324.)

UNLAWFUL CHANGES FOR CONSTRUCTION OR REPAIR WORK

(30 ILCS 545/1) (from Ch. 127, par. 132.51)

Sec. 1. Whenever the General Assembly shall pass any enactment for the construction or repair or any public work or improvement, of the state, of any character or name whatsoever, and the said enactment, shall have become a law, and plans, specifications and estimates for the construction or repair of said public work or improvement have been submitted to and approved by the authorities designated in said law, and an appropriation has been made to defray the estimated expense thereof; any person or persons, commissioner or commissioners, or other officer or officers, entrusted with the execution of said public work or improvement, who shall so change, alter or modify, or permit or connive at such change, alteration or modification by any person or persons under his or their direction or control, directly or indirectly, so as to incur a greater cost and expense in the construction or repair of such public work or improvement, than was specified by the law authorizing it, and the appropriation made in pursuance thereof, shall be deemed guilty of a Class A misdemeanor.

(Source: P.A. 77-2596.)

SPENDING MONEY WITHOUT OBTAINING TITLE TO LAND; APPROVAL OF TITLE BY ATTORNEY GENERAL

(30 ILCS 545/2) (from Ch. 127, par. 132.52)

Sec. 2. Spending money without obtaining title to land; approval of title by Attorney General.

(a) Except as otherwise provided in Section 2 of the Superconducting Super Collider Act or for projects constructed under the Bikeway Act, any person or persons, commissioner or commissioners, or other officer or officers, entrusted with the construction or repair of any public work or improvement, as set forth in Section 1, who shall expend or cause to be expended upon such public work or improvement, the whole or any part of the moneys appropriated therefor, or who shall commence work, or in any way authorize work to be commenced, thereon, without first having obtained a title, by purchase, donation, condemnation or otherwise, to all lands needed for such public work or improvement, running to the People of the State of Illinois; such title to be approved by the Attorney General, and his approval certified by the Secretary of State and placed on record in his office, shall be deemed guilty of a Class A misdemeanor.

(b) Approval of title by the Attorney General for all lands needed for a public work or improvement shall not be required as established under subsection (a) of this Section and the State Comptroller may draw warrant in payment of consideration for all such lands without requiring approval of title by the Attorney General if consideration to be paid does not exceed \$10,000 and the title acquired for such lands is for:

(1) a fee simple title or easement acquired by the State for highway right-of-way;

or

(2) an acquisition of rights or easements of access, crossing, light, air or view to, from or over a freeway vested in abutting property; or

(3) a fee simple title or easement used to place utility lines and connect a permanent public work or improvement owned by the State to main utility lines; or

(4) for the purpose of flood relief or other water resource projects.

(c) This Section does not apply to any otherwise lawful expenditures for the construction, completion, remodeling, maintenance and equipment of buildings and other facilities made in connection with and upon premises owned by the Illinois Building Authority, nor shall this Section apply to improvements to real estate leased by any State agency as defined in the Illinois State Auditing Act, provided the leasehold improvements were contracted for by an agency with leasing authority and in compliance with the rules and regulations promulgated by such agency for that purpose.

(Source: P.A. 88-676, eff. 12-14-94; 89-78, eff. 6-30-95.)

PROSECUTION

(30 ILCS 545/3) (from Ch. 127, par. 132.53)

Sec. 3. Any person or persons, commissioner or commissioners, or other officer or officers, as aforesaid, may be prosecuted in any circuit court of this state, on complaint of 2 or more reputable citizens being filed in the office of the clerk of said court; such complaint to be verified by affidavits.

(Source: Laws 1965, p. 3749.)

INDICTMENT

(30 ILCS 545/4) (from Ch. 127, par. 132.54)

Sec. 4. It shall be the duty of the State's attorney of the county in which such complaint and affidavits are filed, to present the same to the grand jury, next constituted for such court after the filing thereof, and if said grand jury shall indict the person or persons so complained of it shall further be the duty of said State's attorney to prosecute and try the alleged offender or offenders.

(Source: Laws 1933, p. 475.)

PUBLIC CONSTRUCTION BOND ACT

30 ILCS 550/

SHORT TITLE

(30 ILCS 550/0.01) (from Ch. 29, par. 14.9)

Sec. 0.01. Short title. This Act may be cited as the Public Construction Bond Act.

(Source: P.A. 86-1324.)

BOND AGREEMENT

(30 ILCS 550/1) (from Ch. 29, par. 15)

Sec. 1. Except as otherwise provided by this Act, all officials, boards, commissions or agents of this State, or of any political subdivision thereof in making contracts for public work of any kind costing over \$5,000 to be performed for the State, or a political subdivision thereof shall require every contractor for the work to furnish, supply and deliver a bond to the State, or to the political subdivision thereof entering into the contract, as the case may be, with good and sufficient sureties. The amount of the bond shall be fixed by the officials, boards, commissions, commissioners or agents, and the bond, among other conditions, shall be conditioned for the completion of the contract, for the payment of material used in the work and for all labor performed in the work, whether by subcontractor or otherwise.

If the contract is for emergency repairs as provided in the Illinois Procurement Code, proof of payment for all labor, materials, apparatus, fixtures, and machinery may be furnished in lieu of the bond required by this Section.

Each such bond is deemed to contain the following provisions whether such provisions are inserted in such bond or not:

"The principal and sureties on this bond agree that all the undertakings, covenants, terms, conditions and agreements of the contract or contracts entered into between the principal and the State or any political subdivision thereof will be performed and fulfilled and to pay all persons, firms and corporations having contracts with the principal or with subcontractors, all just claims due them under the provisions of such contracts for labor performed or materials furnished in the performance of the contract on account of which this bond is given, when such claims are not satisfied out of the contract price of the contract on account of which this bond is given, after final settlement between the officer, board, commission or agent of the State or of any political subdivision thereof and the principal has been made."

The surety bond required by this Section may be acquired from the company, agent or broker of the contractor's choice. The bond and sureties shall be subject to the right of reasonable approval or disapproval, including suspension, by the State or political subdivision thereof concerned. In the case of State construction contracts, a contractor shall not be required to post a cash bond or letter of credit in addition to or as a substitute for the surety bond required by this Section.

When other than motor fuel tax funds, federal-aid funds, or other funds received from the State are used, a political subdivision may allow the contractor to provide a non-diminishing irrevocable bank letter of credit, in lieu of the bond required by this Section, on contracts under \$100,000 to comply with the requirements of this Section. Any such bank letter of credit shall contain all provisions required for bonds by this Section.

(Source: P.A. 93-221, eff. 1-1-04.)

RECOVERY ON BOND OR LETTER OF CREDIT; CLAIMS

(30 ILCS 550/2) (from Ch. 29, par. 16)

Sec. 2. Every person furnishing material or performing labor, either as an individual or as a sub-contractor for any contractor, with the State, or a political subdivision thereof where bond

or letter of credit shall be executed as provided in this Act, shall have the right to sue on such bond or letter of credit in the name of the State, or the political subdivision thereof entering into such contract, as the case may be, for his use and benefit, and in such suit the plaintiff shall file a copy of such bond or letter of credit, certified by the party or parties in whose charge such bond or letter of credit shall be, which copy shall, unless execution thereof be denied under oath, be prima facie evidence of the execution and delivery of the original; provided, however, that this Act shall not be taken to in any way make the State, or the political subdivision thereof entering into such contract, as the case may be, liable to such sub-contractor, materialman or laborer to any greater extent than it was liable under the law as it stood before the adoption of this Act. Provided, however, that any person having a claim for labor, and material as aforesaid shall have no such right of action unless he shall have filed a verified notice of said claim with the officer, board, bureau or department awarding the contract, within 180 days after the date of the last item of work or the furnishing of the last item of materials, and shall have furnished a copy of such verified notice to the contractor within 10 days of the filing of the notice with the agency awarding the contract.

The claim shall be verified and shall contain (1) the name and address of the claimant; the business address of the claimant within this State and if the claimant shall be a foreign corporation having no place of business within the State, the notice shall state the principal place of business of said corporation and in the case of a partnership, the notice shall state the names and residences of each of the partners; (2) the name of the contractor for the government; (3) the name of the person, firm or corporation by whom the claimant was employed or to whom he or it furnished materials; (4) the amount of the claim; (5) a brief description of the public improvement sufficient for identification.

No defect in the notice herein provided for shall deprive the claimant of his right of action under this article unless it shall affirmatively appear that such defect has prejudiced the rights of an interested party asserting the same.

Provided, further, that no action shall be brought until the expiration of 120 days after the date of the last item of work or the furnishing of the last item of materials, except in cases where the final settlement between the officer, board, bureau or department of municipal corporation and the contractor shall have been made prior to the expiration of the 120 day period, in which case action may be taken immediately following such final settlement; nor shall any action of any kind be brought later than 6 months after the acceptance by the State or political subdivision thereof of the building project or work. Such action shall be brought only in the circuit court of this State in the judicial circuit in which the contract is to be performed.

The remedy provided in this Section is in addition to and independent of any other rights and remedies provided at law or in equity. A waiver of rights under the Mechanics Lien Act shall not constitute a waiver of rights under this Section unless specifically stated in the waiver.

(Source: P.A. 93-562, eff. 8-20-03.)

CASH BOND

(30 ILCS 550/3)

Sec. 3. Builder or developer cash bond or other surety.

(a) A county or municipality may not require a cash bond, irrevocable letter of credit, surety bond, or letter of commitment issued by a bank, savings and loan association, surety, or insurance company from a builder or developer to guarantee completion of a project improvement when the builder or developer has filed with the county or municipal clerk a current, irrevocable letter of credit, surety bond, or letter of commitment issued by a bank, savings and loan association, surety, or insurance company, deemed good and sufficient by the county or municipality accepting such security, in an amount equal to or greater than 110% of the amount of the bid on each project improvement. A builder or developer has the option to utilize a cash bond, irrevocable letter of credit, surety bond, or letter of commitment, issued by a

bank, savings and loan association, surety, or insurance company, deemed good and sufficient by the county or municipality, to satisfy any cash bond requirement established by a county or municipality. Except for a municipality or county with a population of 1,000,000 or more, the county or municipality must approve and deem a surety or insurance company good and sufficient for the purposes set forth in this Section if the surety or insurance company is authorized by the Illinois Department of Insurance to sell and issue sureties in the State of Illinois.

(b) If a county or municipality receives a cash bond, irrevocable letter of credit, or surety bond from a builder or developer to guarantee completion of a project improvement, the county or municipality shall (i) register the bond under the address of the project and the construction permit number and (ii) give the builder or developer a receipt for the bond. The county or municipality shall establish and maintain a separate account for all cash bonds received from builders and developers to guarantee completion of a project improvement.

(c) The county or municipality shall refund a cash bond to a builder or developer, or release the irrevocable letter of credit or surety bond, within 60 days after the builder or developer notifies the county or municipality in writing of the completion of the project improvement for which the bond was required. For these purposes, "completion" means that the county or municipality has determined that the project improvement for which the bond was required is complete or a licensed engineer or licensed architect has certified to the builder or developer and the county or municipality that the project improvement has been completed to the applicable codes and ordinances. The county or municipality shall pay interest to the builder or developer, beginning 60 days after the builder or developer notifies the county or municipality in writing of the completion of the project improvement, on any bond not refunded to a builder or developer, at the rate of 1% per month.

(d) A home rule county or municipality may not require or maintain cash bonds, irrevocable letters of credit, surety bonds, or letters of commitment issued by a bank, savings and loan association, surety, or insurance company from builders or developers in a manner inconsistent with this Section. This Section supercedes and controls over other provisions of the Counties Code or Illinois Municipal Code as they apply to and guarantee completion of a project improvement that is required by the county or municipality, regardless of whether the project improvement is a condition of annexation agreements. This Section is a denial and limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by a home rule county or municipality of powers and functions exercised by the State. (Source: P.A. 92-479, eff. 1-1-02.)

ILLINOIS MINED COAL ACT

30 ILCS 555/

SHORT TITLE

(30 ILCS 555/0.01) (from Ch. 29, par. 35.9)

Sec. 0.01. Short title. This Act may be cited as the Illinois Mined Coal Act.

(Source: P.A. 86-1324.)

GUIDELINES FOR PURCHASING ILLINOIS COAL

(30 ILCS 555/1) (from Ch. 29, par. 36)

Sec. 1. The board of trustees or other officer in charge of every institution in the State of Illinois which is supported in whole or in part by public funds or which is owned by any municipal corporation or political subdivision of this State, who are authorized and required to purchase coal for fuel purposes in the operation of any such institution, shall be required to purchase and use coal which is mined in the State of Illinois, if the cost of coal mined in the State of Illinois is not more than ten per cent (10%) greater than the cost of coal mined in any other State or States, including the cost of transportation.

(Source: Laws 1937, p. 1207.)

DEFINITION

(30 ILCS 555/2) (from Ch. 29, par. 37)

Sec. 2. The term "institution" as used in this Act shall mean all institutions maintained by the State or by any municipal corporation or political subdivision thereof, including municipally owned public utility plants.

(Source: Laws 1937, p. 1207.)

VIOLATIONS

(30 ILCS 555/3) (from Ch. 29, par. 38)

Sec. 3. Any trustee or officer who shall violate any of the provisions of this Act shall be deemed guilty of a petty offense.

(Source: P.A. 77-2367.)

INVESTIGATION OF VIOLATIONS

(30 ILCS 555/4) (from Ch. 29, par. 39)

Sec. 4. The Department of Natural Resources shall, upon its own motion or upon complaint, investigate any violations of this Act. If after any such investigation such Department is satisfied that any of the provisions of this Act have been violated, it shall institute proceedings for the prosecution of such violators in the circuit court.

(Source: P.A. 89-445, eff. 2-7-96.)

PUBLIC WORKS PREFERENCE ACT

30 ILCS 560/

SHORT TITLE

(30 ILCS 560/0.01) (from Ch. 48, par. 268.9)

Sec. 0.01. Short title. This Act may be cited as the Public Works Preference Act.

(Source: P.A. 86-1324.)

DEFINITIONS

(30 ILCS 560/1) (from Ch. 48, par. 269)

Sec. 1. A person shall be deemed to be an Illinois laborer if he is a citizen of the United States or has received his first naturalization papers and has resided in Illinois for at least one year immediately preceding his employment.

(Source: Laws 1939, p. 567.)

LABORERS

(30 ILCS 560/2) (from Ch. 48, par. 270)

Sec. 2. Laborers on public works projects shall include all labor, whether skilled, semi-skilled or unskilled, and whether manual or nonmanual.

(Source: Laws 1939, p. 567.)

REQUIREMENTS OF EMPLOYMENT

(30 ILCS 560/3) (from Ch. 48, par. 271)

Sec. 3. Every person who is charged with the duty, either by law or contract, of constructing or building any public works project or improvement for the State of Illinois or any political subdivision, municipal corporation or other governmental unit thereof shall employ only Illinois laborers on such project or improvement, and every contract let by any such person shall contain a provision requiring that such labor be used: Provided, that other laborers may be used when Illinois laborers as defined in this Act are not available, or are incapable of performing the particular type of work involved, if so certified by the contractor and approved by the contracting officer.

(Source: Laws 1939, p. 567.)

LIMITATIONS OF CONTRACTORS; NON-RESIDENTS

(30 ILCS 560/4) (from Ch. 48, par. 272)

Sec. 4. Every contractor on a public works project or improvement in this state may place on such work not to exceed three (3) of his regularly employed non-resident executive and technical experts, even though they do not qualify as Illinois laborers as defined in this Act.

(Source: Laws 1939, p. 567.)

FEDERAL RULES AND REGULATIONS

(30 ILCS 560/5) (from Ch. 48, par. 273)

Sec. 5. In all contracts involving the expenditure of federal aid funds this Act shall not be enforced in such manner as to conflict with any federal statutes or rules and regulations.

(Source: Laws 1939, p. 567.)

VIOLATIONS

(30 ILCS 560/6) (from Ch. 48, par. 274)

Sec. 6. Any person who fails to use Illinois laborers as required in this Act, shall be guilty of a Class C misdemeanor. Each separate case of failure to use Illinois laborers on such public works projects or improvements shall constitute a separate offense.

(Source: P.A. 77-2438.)

ENFORCEMENT

(30 ILCS 560/7) (from Ch. 48, par. 275)

Sec. 7. This Act shall be enforced by the Department of Labor.

(Source: Laws 1939, p. 567.)

STEEL PRODUCTS PROCUREMENT ACT

30 ILCS 565/

SHORT TITLE

(30 ILCS 565/1) (from Ch. 48, par. 1801)

Sec. 1. This Act shall be known and may be cited as the "Steel Products Procurement Act".

(Source: P.A. 83-1030.)

DECLARATION OF ACT

(30 ILCS 565/2) (from Ch. 48, par. 1802)

Sec. 2. It is hereby found and declared by the Illinois General Assembly that

(1) The production of steel products provides the jobs and family incomes of hundreds of thousands of people in this State and, in turn, the jobs and family incomes of millions of persons in the United States;

(2) The taxes paid to the State and its political subdivisions by employers and employees engaged in the production and sale of steel products are a large source of public revenues in the State;

(3) The economy and general welfare of this State and its people, as well as the economy and general welfare of the United States, are inseparably related to the preservation and development of industry in this State, as well as all the other states of this nation.

The General Assembly therefore declares it to be the policy of the State of Illinois that all public officers and agencies should aid and promote the economy of the State and the United States by specifying steel products produced in the United States in all contracts for construction, reconstruction, repair, improvement or maintenance of public works.

(Source: P.A. 83-1030.)

DEFINITIONS

(30 ILCS 565/3) (from Ch. 48, par. 1803)

Sec. 3. For the purposes of this Act, the following words have the meanings ascribed to them in this Section unless the context clearly requires otherwise.

(a) "Public agency" means the State of Illinois, its departments, agencies, boards, commissions and institutions, and all units of local government, including school districts.

(b) "United States" means the United States and any place subject to the jurisdiction thereof.

(c) "Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two or more such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.

(Source: P.A. 83-1030.)

PROVISIONS

(30 ILCS 565/4) (from Ch. 48, par. 1804)

Sec. 4. Each contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works made by a public agency shall contain a provision that steel products used or supplied in the performance of that contract or any subcontract thereto shall be manufactured or produced in the United States.

The provisions of this Section shall not apply:

(1) Where the contract involves an expenditure of less than \$500.

(2) Where the executive head of the public agency certifies in writing that (a) the specified products are not manufactured or produced in the United States in sufficient quantities to meet the agency's requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the agency's requirements, or (b) obtaining the specified products, manufactured or produced in the United States would increase the cost of the contract by more than 10%.

(3) When its application is not in the public interest.

(Source: P.A. 83-1030.)

VIOLATIONS

(30 ILCS 565/5) (from Ch. 48, par. 1805)

Sec. 5. No public agency may authorize, provide for or make any payment to any vendor or contractor upon any contract in violation of Section 4. It shall be a business offense for any vendor or contractor to knowingly enter into any contract in violation of Section 4 or to knowingly violate contract provisions required by Section 4. Each such violation shall subject the violator to a fine of the greater of \$5,000 or the payment price received by him as a result of such violation. The Attorney General is authorized to file and prosecute a complaint in the circuit court of any county in which the contract was in whole or in part executed or performed.

(Source: P.A. 83-1030.)

EFFECTIVE DATES

(30 ILCS 565/6) (from Ch. 48, par. 1806)

Sec. 6. This Act shall apply only to contracts and subcontracts entered into after the effective date of this Act, and shall not limit the use or supply of steel products purchased or leased prior to the effective date of this Act.

(Source: P.A. 83-1030.)

EXISTING TREATY, LAW, AGREEMENT OR REGULATION

(30 ILCS 565/7) (from Ch. 48, par. 1807)

Sec. 7. Nothing in this Act is intended to contravene any existing treaty, law, agreement or regulation of the United States. Contracts entered into in accordance with an existing treaty, law, agreement or regulation of the United States shall not be in violation of this Act to the extent of such accordance.

(Source: P.A. 83-1030.)

EMPLOYMENT OF ILLINOIS WORKERS ON PUBLIC WORKS ACT 30 ILCS 570/

SHORT TITLE

(30 ILCS 570/0.01) (from Ch. 48, par. 2200)

Sec. 0.01. Short title. This Act may be cited as the Employment of Illinois Workers on Public Works Act.

(Source: P.A. 86-1324.)

DEFINITIONS

(30 ILCS 570/1) (from Ch. 48, par. 2201)

Sec. 1. For the purposes of Article 2 of this Act, the following words have the meanings ascribed to them in this Section.

(1) "Illinois laborer" refers to any person who has resided in Illinois for at least 30 days and intends to become or remain an Illinois resident.

(2) "A period of excessive unemployment" means any month immediately following 2 consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5% as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures.

(3) "Hazardous waste" has the definition ascribed to it in Section 3.220 of the Illinois Environmental Protection Act, approved June 29, 1970, as amended.

(Source: P.A. 92-574, eff. 6-26-02.)

PURPOSE

(30 ILCS 570/1.1) (from Ch. 48, par. 2201.1)

Sec. 1.1. The General Assembly finds and declares that unemployment in Illinois has traditionally tended to be higher in those counties which border upon other states. Further, the General Assembly finds and declares that the over-utilization of out-of-state laborers on public works projects or improvements for the State of Illinois or any political subdivision, municipal corporation or other governmental units thereof is a contributing factor to higher levels of unemployment both in the border counties and throughout Illinois. It is the public policy of this State and the objective of this Act to promote the general welfare of the people of this State by ensuring that Illinois laborers are utilized to the greatest extent possible on public works projects or improvements for the State of Illinois or any political subdivision, municipal corporation or other governmental units thereof. To this end, this Act shall be liberally construed to effectuate its purpose.

(Source: P.A. 87-377.)

HAZARDOUS WASTE

(30 ILCS 570/2) (from Ch. 48, par. 2202)

Sec. 2. Article 2 of this Act applies to all labor on public works projects or improvements, including projects involving the clean-up and on-site disposal of hazardous waste, but excluding emergency response or immediate removal activities, whether skilled, semi-skilled or unskilled, whether manual or non-manual.

(Source: P.A. 86-1015.)

EXCESSIVE UNEMPLOYMENT

(30 ILCS 570/3) (from Ch. 48, par. 2203)

Sec. 3. Whenever there is a period of excessive unemployment in Illinois, every person who is charged with the duty, either by law or contract, of constructing or building any public works project or improvement or for the clean-up and on-site disposal of hazardous waste for the State of Illinois or any political subdivision, municipal corporation or other governmental unit thereof shall employ only Illinois laborers on such project or improvement, and every contract let by any such person shall contain a provision requiring that such labor be used: Provided, that other laborers may be used when Illinois laborers as defined in this Act are not available, or are incapable of performing the particular type of work involved, if so certified by the contractor and approved by the contracting officer.

(Source: P.A. 86-1015.)

NON-RESIDENT EMPLOYEES

(30 ILCS 570/4) (from Ch. 48, par. 2204)

Sec. 4. Every contractor on a public works project or improvement or hazardous waste clean-up and on-site disposal project in this State may place on such work no more than 3, or 6 in the case of a hazardous waste clean-up and on-site disposal project, of his regularly employed non-resident executive and technical experts, even though they do not qualify as Illinois laborers as defined in Section 1 of Article 2 of this Act.

(Source: P.A. 86-1015.)

FEDERAL FUNDS AND EXPENDITURES

(30 ILCS 570/5) (from Ch. 48, par. 2205)

Sec. 5. (a) In all contracts involving the expenditure of federal aid funds in relation to a public works project or improvement, Article 2 of this Act shall not be enforced in such manner as to conflict with any federal statutes or rules and regulations.

(b) When federal expenditures are used in combination with State expenditures for clean-up and on-site disposal of hazardous waste, it shall be the responsibility of the Illinois Environmental Protection Agency to notify, with respect to such project, any Illinois hazardous waste cleanup contractor who has requested such notification of the date when bids will be accepted for such projects and the requirements necessary to successfully compete for such projects.

(Source: P.A. 86-1015.)

PENALTY FOR FAILURE TO USE ILLINOIS LABORERS

(30 ILCS 570/6) (from Ch. 48, par. 2206)

Sec. 6. Any person who knowingly fails to use Illinois laborers as required in Article 2 of this Act, shall be guilty of a Class C misdemeanor. Each separate case of failure to use Illinois laborers on such public works projects or improvements or for the clean-up and on-site disposal of hazardous waste shall constitute a separate offense.

(Source: P.A. 86-1015.)

ENFORCEMENT BY THE DEPARTMENT OF LABOR

(30 ILCS 570/7) (from Ch. 48, par. 2207)

Sec. 7. Article 2 of this Act shall be enforced by the Department of Labor, which, as represented by the Attorney General, is empowered to sue for injunctive relief against the awarding of any contract or the continuation of any work under any contract for public works or improvements or for the clean-up and on-site disposal of hazardous waste at a time when the provisions of Article 2 of this Act are not being met.

(Source: P.A. 86-1015.)

**BUSINESS ENTERPRISE FOR MINORITIES,
FEMALES, AND PERSONS WITH DISABILITIES ACT
30 ILCS 575/**

SHORT TITLE

(30 ILCS 575/0.01) (from Ch. 127, par. 132.600)

(Section scheduled to be repealed on September 6, 2004)

Sec. 0.01. Short title. This Act may be cited as the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(Source: P.A. 88-597, eff. 8-28-94.)

PURPOSE

(30 ILCS 575/1) (from Ch. 127, par. 132.601)

(Section scheduled to be repealed on September 6, 2004)

Sec. 1. Purpose. The State of Illinois declares that it is the public policy of the State to promote and encourage the continuing economic development of minority and female owned and operated businesses and that minority and female owned and operated businesses participate in the State's procurement process as both prime and subcontractors. The State of Illinois has observed that the goals established in this Act have served to increase the participation of minority and female businesses in contracts awarded by the State. The State hereby declares that the adoption of this amendatory Act of 1989 shall serve the State's continuing interest in promoting open access in the awarding of State contracts to disadvantaged small business enterprises victimized by discriminatory practices. Furthermore, after reviewing evidence of the high level of attainment of the 10% minimum goals established under this Act, and, after considering evidence that minority and female businesses, as established in 1982, constituted and continue to constitute more than 10% of the businesses operating in this State, the State declares that the continuation of such 10% minimum goals under this amendatory Act of 1989 is a narrowly tailored means of promoting open access and thus the further growth and development of minority and female businesses.

The State of Illinois further declares that it is the public policy of this State to promote and encourage the continuous economic development of businesses owned by persons with disabilities and a 2% contracting goal is a narrowly tailored means of promoting open access and thus the further growth and development of those businesses.

(Source: P.A. 88-597, eff. 8-28-94.)

DEFINITIONS

(30 ILCS 575/2) (from Ch. 127, par. 132.602)

(Section scheduled to be repealed on September 6, 2004)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is:

(a) African American (a person having origins in any of the black racial groups in Africa);

(b) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race);

(c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or

(d) Native American or Alaskan Native (a person having origins in any of the original peoples of North America).

(2) "Female" shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as being disabled under subdivision (2.1) of this subsection (A).

(2.1) "Disabled" means a severe physical or mental disability that:

(a) results from:

amputation,
arthritis,
autism,
blindness,
burn injury,
cancer,
cerebral palsy,
cystic fibrosis,
deafness,
head injury,
heart disease,
hemiplegia,
hemophilia,
respiratory or pulmonary dysfunction,
mental retardation,
mental illness,
multiple sclerosis,
muscular dystrophy,
musculoskeletal disorders,
neurological disorders, including stroke and epilepsy,
paraplegia,
quadriplegia and other spinal cord conditions,
sickle cell anemia,
specific learning disabilities, or
end stage renal failure disease; and

(b) substantially limits one or more of the person's major life activities.

Another disability or combination of disabilities may also be considered as a severe disability for the purposes of item (a) of this subdivision (2.1) if it is determined by an evaluation of rehabilitation potential to cause a comparable degree of substantial functional limitation similar to the specific list of disabilities listed in item (a) of this subdivision (2.1).

(3) "Minority owned business" means a business concern which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

(4) "Female owned business" means a business concern which is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.

(4.1) "Business owned by a person with a disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.2) "Council" means the Business Enterprise Council for Minorities, Females, and Persons with Disabilities created under Section 5 of this Act.

(5) "State contracts" shall mean all State contracts, funded exclusively with State funds which are not subject to federal reimbursement, whether competitively bid or negotiated as defined by the Secretary of the Council and approved by the Council.

"State construction contracts" means all State contracts entered into by a State agency or State university for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "State universities" shall mean the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, and the Board of Trustees of Western Illinois University.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, female, or person with a disability for whatever purpose.

(9) "Control" means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.

(10) "Business concern or business" means a business which has annual gross sales for the most recent fiscal year of less than \$27,000,000, except that a firm with gross sales in excess of that amount may apply to the Council for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on businesses owned by minorities, females, or persons with disabilities as suppliers or subcontractors or in employment of minorities, females, or persons with disabilities.

(B) When a business concern is owned at least 51% by any combination of minority persons, females, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the Department of Central Management Services.

(Source: P.A. 92-670, eff. 7-16-02.)

IMPLEMENTATION AND APPLICABILITY

(30 ILCS 575/3) (from Ch. 127, par. 132.603)

(Section scheduled to be repealed on September 6, 2004)

Sec. 3. Implementation and applicability. This Act shall be applied to all State agencies and State universities.

(Source: P.A. 85-729.)

AWARD OF STATE CONTRACTS

(30 ILCS 575/4) (from Ch. 127, par. 132.604)

(Section scheduled to be repealed on September 6, 2004)

Sec. 4. Award of State contracts.

(a) Except as provided in subsection (b), not less than 12% of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as a goal to be awarded to businesses owned by minorities, females, and persons with disabilities; provided, however, that contracts representing at least five-twelfths of the total amount of all State contracts awarded to businesses owned by minorities, females, and persons with disabilities pursuant to this Section shall be awarded to female owned businesses, and that contracts representing at least one-sixth of the total amount of all State contracts awarded to businesses owned by minorities, females, and persons with disabilities pursuant to this Section shall be awarded to businesses owned by persons with disabilities.

The above percentage relates to the total dollar amount of State contracts during each State fiscal year, calculated by examining independently each type of contract for each agency or university which lets such contracts. Only that percentage of arrangements which represents the participation of businesses owned by minorities, females, and persons with disabilities on such contracts shall be included.

(b) In the case of State construction contracts, the provisions of subsection (a) requiring a portion of State contracts to be awarded to businesses owned and controlled by persons with disabilities do not apply. Not less than 10% of the total dollar amount of State construction contracts is established as a goal to be awarded to minority and female owned businesses, and contracts representing 50% of the amount of all State construction contracts awarded to minority and female owned businesses shall be awarded to female owned businesses.

(Source: P.A. 87-701; 88-597, eff. 8-28-94.)

BUSINESS ENTERPRISE COUNCIL

(30 ILCS 575/5) (from Ch. 127, par. 132.605)

(Section scheduled to be repealed on September 6, 2004)

Sec. 5. Business Enterprise Council.

(1) To help implement, monitor and enforce the goals of this Act, there is created the Business Enterprise Council for Minorities, Females, and Persons with Disabilities, hereinafter referred to as the Council, composed of the Secretary of Human Services and the Directors of the Department of Human Rights, the Department of Commerce and Economic Opportunity Community Affairs, the Department of Central Management Services, the Department of Transportation and the Capital Development Board, or their duly appointed representatives. Ten individuals representing businesses that are minority or female owned or owned by persons with disabilities, 2 individuals representing the business community, and a representative of public universities shall be appointed by the Governor. These members shall serve 2 year terms and shall be eligible for reappointment. Any vacancy occurring on the Council shall also be filled by the Governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members of the Council shall serve without compensation but shall be reimbursed for any ordinary and necessary expenses incurred in the performance of their duties.

The Director of the Department of Central Management Services shall serve as the Council chairperson and shall select, subject to approval of the council, a Secretary responsible for the operation of the program who shall serve as the Division Manager of the Business Enterprise for Minorities, Females, and Persons with Disabilities Division of the Department of Central Management Services.

The Director of each State agency and the chief executive officer of each State university shall appoint a liaison to the Council. The liaison shall be responsible for submitting to the Council any reports and documents necessary under this Act.

(2) The Council's authority and responsibility shall be to:

(a) Devise a certification procedure to assure that businesses taking advantage of this Act are legitimately classified as businesses owned by minorities, females, or persons with disabilities.

(b) Maintain a list of all businesses legitimately classified as businesses owned by minorities, females, or persons with disabilities to provide to State agencies and State universities.

(c) Review rules and regulations for the implementation of the program for businesses owned by minorities, females, and persons with disabilities.

(d) Review compliance plans submitted by each State agency and State university pursuant to this Act.

(e) Make annual reports as provided in Section 8f to the Governor and the General Assembly on the status of the program.

(f) Serve as a central clearinghouse for information on State contracts, including the maintenance of a list of all pending State contracts upon which businesses owned by minorities, females, and persons with disabilities may bid. At the Council's discretion, maintenance of the list may include 24-hour electronic access to the list along with the bid and application information.

(g) Establish a toll free telephone number to facilitate information requests concerning the certification process and pending contracts.

(3) No premium bond rate of a surety company for a bond required of a business owned by a minority, female, or person with a disability bidding for a State contract shall be higher than the lowest rate charged by that surety company for a similar bond in the same classification of work that would be written for a business not owned by a minority, female, or person with a disability.

(4) Any Council member who has direct financial or personal interest in any measure pending before the Council shall disclose this fact to the Council and refrain from participating in the determination upon such measure.

(5) The Secretary shall have the following duties and responsibilities:

(a) To be responsible for the day-to-day operation of the Council.

(b) To serve as a coordinator for all of the State's programs for businesses owned by minorities, females, and persons with disabilities and as the information and referral center for all State initiatives for businesses owned by minorities, females, and persons with disabilities.

(c) To establish an enforcement procedure whereby the Council may recommend to the appropriate State legal officer that the State exercise its legal remedies which shall include (1) termination of the contract involved, (2) prohibition of participation by the respondent in public contracts for a period not to exceed one year, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof. Such procedures shall require prior approval by Council.

(d) To devise appropriate policies, regulations and procedures for including participation by businesses owned by minorities, females, and persons with disabilities as prime contractors including, but not limited to, (i) encouraging the inclusions of

qualified businesses owned by minorities, females, and persons with disabilities on solicitation lists, (ii) investigating the potential of blanket bonding programs for small construction jobs, (iii) investigating and making recommendations concerning the use of the sheltered market process.

(e) To devise procedures for the waiver of the participation goals in appropriate circumstances.

(f) To accept donations and, with the approval of the Council or the Director of Central Management Services, grants related to the purposes of this Act; to conduct seminars related to the purpose of this Act and to charge reasonable registration fees; and to sell directories, vendor lists and other such information to interested parties, except that forms necessary to become eligible for the program shall be provided free of charge to a business or individual applying for the program.

(Source: P.A. 88-377; 88-597, eff. 8-28-94; 89-507, eff. 7-1-97; revised 12-6-03.)

AGENCY COMPLIANCE PLANS

(30 ILCS 575/6) (from Ch. 127, par. 132.606)

(Section scheduled to be repealed on September 6, 2004)

Sec. 6. Agency compliance plans. Each State agency and State university under the jurisdiction of this Act shall file with the Council an annual compliance plan which shall outline the goals of the State agency or State university for contracting with businesses owned by minorities, females, and persons with disabilities for the then current fiscal year, the manner in which the agency intends to reach these goals and a timetable for reaching these goals. The Council shall review and approve the plan of each State agency and State university and may reject any plan that does not comply with this Act or any rules or regulations promulgated pursuant to this Act.

(a) The compliance plan shall also include, but not be limited to, (1) a policy statement, signed by the State agency or State university head, expressing a commitment to encourage the use of businesses owned by minorities, females, and persons with disabilities, (2) the designation of the liaison officer provided for in Section 5 of this Act, (3) procedures to distribute to potential contractors and vendors the list of all businesses legitimately classified as businesses owned by minorities, females, and persons with disabilities and so certified under this Act, (4) procedures to set separate contract goals on specific prime contracts and purchase orders with subcontracting possibilities based upon the type of work or services and subcontractor availability, (5) procedures to assure that contractors and vendors make good faith efforts to meet contract goals, (6) procedures for contract goal exemption, modification and waiver, and (7) the delineation of separate contract goals for businesses owned by minorities, females, and persons with disabilities.

(b) Approval of the compliance plans shall include such delegation of responsibilities to the requesting State agency or State university as the Council deems necessary and appropriate to fulfill the purpose of this Act. Such responsibilities may include, but need not be limited to those outlined in subsections (1), (2) and (3) of Section 7 and paragraph (a) of Section 8.

(c) Each State agency and State university under the jurisdiction of this Act shall file with the Council an annual report of its utilization of businesses owned by minorities, females, and persons with disabilities during the preceding fiscal year including lapse period spending and a mid-fiscal year report of its utilization to date for the then current fiscal year. The reports shall include a self-evaluation of the efforts of the State agency or State university to meet its goals under the Act.

(d) Notwithstanding any provisions to the contrary in this Act, any State agency or State university which administers a construction program, for which federal law or regulations establish standards and procedures for the utilization of minority, disadvantaged, and female-

owned business, shall implement a disadvantaged business enterprise program to include minority, disadvantaged and female-owned businesses, using the federal standards and procedures for the establishment of goals and utilization procedures for the State-funded, as well as the federally assisted, portions of the program. In such cases, these goals shall not exceed those established pursuant to the relevant federal statutes or regulations. Notwithstanding the provisions of Section 8b, the Illinois Department of Transportation is authorized to establish sheltered markets for the State-funded portions of the program consistent with federal law and regulations. Additionally, a compliance plan which is filed by such State agency or State university pursuant to this Act, which incorporates equivalent terms and conditions of its federally-approved compliance plan, shall be deemed approved under this Act.

(Source: P.A. 88-377; 88-597, eff. 8-28-94.)

NOTICE OF CONTRACTS TO COUNCIL

(30 ILCS 575/6a) (from Ch. 127, par. 132.606a)

(Section scheduled to be repealed on September 6, 2004)

Sec. 6a. Notice of contracts to Council. Except in case of emergency as defined in the Illinois Purchasing Act, or as authorized by rule promulgated by the Department of Central Management Services, each agency and State university under the jurisdiction of this Act shall notify the Secretary of the Council of proposed contracts for professional and artistic services and provide the information in the form and detail as required by rule promulgated by the Department of Central Management Services. Notification may be made through direct written communication to the Secretary to be received at least 14 days before execution of the contract (or the solicitation response date, if applicable) or by advertising in the official State newspaper for at least 3 days, the last of which must be at least 10 days after the first publication. The agency or university must consider any vendor referred by the Secretary before execution of the contract. The provisions of this Section shall not apply to any State agency or State university that has awarded contracts for professional and artistic services to businesses owned by minorities, females, and persons with disabilities totalling in the aggregate \$5,000,000 or more during the preceding fiscal year.

(Source: P.A. 87-628; 88-377; 88-597, eff. 8-28-94.)

EXEMPTIONS AND WAIVERS

(30 ILCS 575/7) (from Ch. 127, par. 132.607)

(Section scheduled to be repealed on September 6, 2004)

Sec. 7. Exemptions and waivers.

(1) Individual contract exemptions. The Council, on its own initiative or at the request of the affected agency or university, may permit an individual contract or contract package, (related contracts being bid or awarded simultaneously for the same project or improvements) be made wholly or partially exempt from State contracting goals for businesses owned by minorities, females, and persons with disabilities prior to the advertisement for bids or solicitation of proposals whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of businesses owned by minorities, females, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the individual contract or contract package in question.

(2) Class exemptions. (a) Creation. The Council, on its own initiative or at the request of the affected agency or university, may permit an entire class of contracts be made exempt from State contracting goals for businesses owned by minorities, females, and persons with disabilities whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of

qualified businesses owned by minorities, females, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals within that class.

(b) Limitation. Any such class exemption shall not be permitted for a period of more than one year at a time.

(3) Waivers. Where a particular contract requires a contractor to meet a goal established pursuant to this Act, the contractor shall have the right to request a waiver from such requirements. The Council shall grant the waiver where the contractor demonstrates that there has been made a good faith effort to comply with the goals for participation by businesses owned by minorities, females, and persons with disabilities.

(4) Conflict with other laws. In the event that any State contract, which otherwise would be subject to the provisions of this Act, is or becomes subject to federal laws or regulations which conflict with the provisions of this Act or actions of the State taken pursuant hereto, the provisions of the federal laws or regulations shall apply and the contract shall be interpreted and enforced accordingly.

(Source: P.A. 88-597, eff. 8-28-94.)

ENFORCEMENT

(30 ILCS 575/8) (from Ch. 127, par. 132.608)

(Section scheduled to be repealed on September 6, 2004)

Sec. 8. Enforcement. The Council shall make such findings, recommendations and proposals to the Governor as are necessary and appropriate to enforce this Act. If, as a result of its monitoring activities, the Council determines that its goals and policies are not being met by any State agency or State university, the Council may recommend any or all of the following actions:

(a) Establish enforcement procedures whereby the Council may recommend to the appropriate State agency, State university, or law enforcement officer that legal or administrative remedies be initiated for violations of contract provisions or rules issued hereunder or by a contracting State agency or State university. State agencies and State universities shall be authorized to adopt remedies for such violations which shall include (1) termination of the contract involved, (2) prohibition of participation of the respondents in public contracts for a period not to exceed one year, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof.

(b) If the Council concludes that a compliance plan submitted under Section 6 is unlikely to produce the participation goals for businesses owned by minorities, females, and persons with disabilities within the then current fiscal year, the Council may recommend that the State agency or State university revise its plan to provide additional opportunities for participation by businesses owned by minorities, females, and persons with disabilities. Such recommended revisions may include, but shall not be limited to, the following:

(i) assurances of stronger and better focused solicitation efforts to obtain more businesses owned by minorities, females, and persons with disabilities as potential sources of supply;

(ii) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of businesses owned by minorities, females, and persons with disabilities;

(iii) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of businesses owned by minorities, females, and persons with disabilities;

(iv) identification of specific proposed contracts as particularly attractive or appropriate for participation by businesses owned by minorities, females, and persons

with disabilities, such identification to result from and be coupled with the efforts of subparagraphs (i) through (iii);

(v) implementation of those regulations established for the use of the sheltered market process.

(Source: P.A. 88-377; 88-597, eff. 8-28-94.)

ADVANCE AND PROGRESS PAYMENTS

(30 ILCS 575/8a) (from Ch. 127, par. 132.608a)

(Section scheduled to be repealed on September 6, 2004)

Sec. 8a. Advance and progress payments. Any contract awarded to a business owned by a minority, female, or person with a disability pursuant to this Act may contain a provision for advance or progress payments, or both, except that a State construction contract awarded to a minority or female owned business pursuant to this Act may contain a provision for progress payments but may not contain a provision for advance payments.

(Source: P.A. 88-597, eff. 8-28-94.)

SCHEDULED COUNCIL MEETINGS; SHELTERED MARKET

(30 ILCS 575/8b) (from Ch. 127, par. 132.608b)

(Section scheduled to be repealed on September 6, 2004)

Sec. 8b. Scheduled council meetings; sheltered market. The Council shall conduct regular meetings to carry out its responsibilities under this Act. At each of the regularly scheduled meetings, time shall be allocated for the Council to receive, review and discuss any evidence regarding past or present racial, ethnic or gender based discrimination which directly impacts State contracting with businesses owned by minorities, females, and persons with disabilities. If after reviewing such evidence the Council finds that there is or has been such discrimination against a specific group, race or sex, the Council shall establish sheltered markets or adjust existing sheltered markets tailored to address the Council's specific findings.

"Sheltered market" shall mean a procurement procedure whereby certain contracts are selected and specifically set aside for businesses owned by minorities, females, and persons with disabilities on a competitive bid or negotiated basis.

As part of the annual report which the Council must file pursuant to paragraph (e) of subsection (2) of Section 5, the Council shall report on any findings made pursuant to this Section.

(Source: P.A. 88-597, eff. 8-28-94.)

RECOMMENDED RULES AND REGULATIONS

(30 ILCS 575/8c) (from Ch. 127, par. 132.608c)

(Section scheduled to be repealed on September 6, 2004)

Sec. 8c. Recommended rules and regulations for the establishment and continuation of narrowly tailored sheltered markets under Section 8b shall be approved by the Council prior to submission by the Department of Central Management Services to the Joint Committee on Administrative Rules. These rules shall include but not be limited to agency goals, waivers and procedures for use of sheltered markets.

(Source: P.A. 86-269; 86-270.)

REPRESENTATION AND INDEMNIFICATION IN CIVIL LAW SUITS

(30 ILCS 575/8d) (from Ch. 127, par. 132.608d)

(Section scheduled to be repealed on September 6, 2004)

Sec. 8d. In the event any proceeding is commenced against any State employee alleging deprivation of a civil or constitutional right under State or federal law arising out of any act or omission occurring within the scope of the enforcement of this Act, the Attorney General

shall upon timely and appropriate notice in accordance with "An Act to provide for representation and indemnification in certain civil law suits", approved December 3, 1977, as now or hereafter amended, appear on behalf of such employee and defend the action. The State shall indemnify the State employee for any damages awarded and court costs and attorneys' fees assessed as part of any final and unreversed judgment or shall pay such judgment. All other provisions of "An Act to provide for representation and indemnification in certain civil law suits", approved December 3, 1977, as now or hereafter amended, shall apply to the representation and indemnification provided for in this Section.

(Source: P.A. 86-269; 86-270.)

PROCEEDS OF CONTRACT AWARDED

(30 ILCS 575/8e) (from Ch. 127, par. 132.608e)

(Section scheduled to be repealed on September 6, 2004)

Sec. 8e. The proceeds of a contract awarded under this Act may be assigned to secure financing necessary to enable performance of the contract.

(Source: P.A. 87-369.)

ANNUAL REPORT

(30 ILCS 575/8f)

(Section scheduled to be repealed on September 6, 2004)

Sec. 8f. Annual report. The Council shall file no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Act over the 3 most recent fiscal years. The annual report shall include, but need not be limited to the following:

(1) a summary detailing State appropriations subject to the goals, the actual goals specified, and the goals attained by each State agency and State university;

(2) a summary of the number of contracts awarded and the average contract amount by each State agency and State university;

(3) an analysis of the level of overall goal achievement concerning purchases from minority businesses, female-owned businesses, and businesses owned by persons with disabilities;

(4) an analysis of the number of businesses owned by minorities, females, and persons with disabilities that are certified under the program as well as the number of those businesses that received State procurement contracts; and

(5) a summary of the number of contracts awarded to businesses with annual gross sales of less than \$1,000,000; of \$1,000,000 or more, but less than \$5,000,000; of \$5,000,000 or more, but less than \$10,000,000; and of \$10,000,000 or more.

(Source: P.A. 88-597, eff. 8-28-94.)

REPEALED

(30 ILCS 575/9) (from Ch. 127, par. 132.609)

(Section scheduled to be repealed on September 6, 2004)

Sec. 9. This Act is repealed September 6, 2004.

(Source: P.A. 91-392, eff. 7-30-99; 91-476, eff. 8-11-99.)

DRUG FREE WORKPLACE ACT

30 ILCS 580/

SHORT TITLE

(30 ILCS 580/1) (from Ch. 127, par. 132.311)

Sec. 1. This Act shall be known and may be cited as the Drug Free Workplace Act.

(Source: P.A. 86-1459.)

DEFINITIONS

(30 ILCS 580/2) (from Ch. 127, par. 132.312)

Sec. 2. As used in this Act:

(a) "Drug free workplace" means a site for the performance of work done in connection with a specific grant or contract of an entity whose employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act.

(b) "Employee" means an employee of a grantee or contractor directly engaged in the specific performance of work pursuant to the provisions of a grant or contract with the State, except that for the purpose of determining the number of employees of a grantee or a contractor under subsections (f) and (g) of this Section, an "employee" shall include any employee of the contractor or grantee.

(c) "Controlled substance" means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act.

(d) "Conviction" means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with determining violations of the Federal or State criminal drug statutes.

(e) "Criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.

(f) "Grantee" means a corporation, partnership, or other entity with 25 or more employees at the time of issuing the grant, or a department, division, or other unit thereof, directly responsible for the specific performance under a grant of \$5,000 or more from the State. For purposes of this Act, "grantee" does not include corporations, partnerships, or other entities that receive public funds in connection with the WIC Vendor Management Act; medical assistance reimbursements to pharmacies for prescribed drugs and reimbursements for durable medical supplies covered under Article V of the Illinois Public Aid Code; the vendor's discount for collection of use and occupation taxes pursuant to the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act; the Superfund program contained in the Illinois Environmental Protection Act; the lease or rental of real property; or grants or loans made for the purpose of solid waste management or reduction. The term "grantee" does not include subcontractors of a grantee. The term "grantee" does not include a railroad that is subject to a federally mandated drug testing program.

(g) "Contractor" means a corporation, partnership, or other entity with 25 or more employees at the time of letting the contract, or a department, division, or unit thereof, directly responsible for the specific performance under a contract of \$5,000 or more. For purposes of this Act, "contractor" does not include corporations, partnerships, or other entities that receive public funds in connection with the WIC Vendor Management Act; medical assistance reimbursements to pharmacies for prescribed drugs and reimbursements for durable medical supplies covered under Article V of the Illinois Public Aid Code; the vendor's discount for collection of use and occupation taxes pursuant to the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act; the Superfund program contained in the Illinois Environmental Protection Act; the lease or rental of real property; or

grants or loans made for the purpose of solid waste management or reduction. The term "contractor" does not include subcontractors of a contractor. The term "contractor" does not include a railroad that is subject to a federally mandated drug testing program.

(h) "State" means all officers, boards, commissions, and agencies created by the Constitution, whether in the executive, legislative, or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; or administrative units or corporate outgrowths of the State government which are created by or pursuant to statute.

(Source: P.A. 86-1459.)

CONTRACTS AND GRANTS

(30 ILCS 580/3) (from Ch. 127, par. 132.313)

Sec. 3. Contracts and grants. No grantee or contractor shall receive a grant or be considered for the purposes of being awarded a contract for the procurement of any property or services from the State unless that grantee or contractor has certified to the granting or contracting agency that it will provide a drug free workplace by:

(a) Publishing a statement:

(1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the grantee's or contractor's workplace.

(2) Specifying the actions that will be taken against employees for violations of such prohibition.

(3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will:

(A) abide by the terms of the statement; and

(B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

(b) Establishing a drug free awareness program to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the grantee's or contractor's policy of maintaining a drug free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug violations.

(c) Making it a requirement to give a copy of the statement required by subsection (a) to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.

(d) Notifying the contracting or granting agency within 10 days after receiving notice under part (B) of paragraph (3) of subsection (a) from an employee or otherwise receiving actual notice of such conviction.

(e) Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by Section 5.

(f) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.

(Source: P.A. 86-1459.)

REQUIREMENT FOR INDIVIDUALS

(30 ILCS 580/4) (from Ch. 127, par. 132.314)

Sec. 4. Requirement for individuals. The State shall not enter into a contract for more than \$5,000 or make a grant of more than \$5,000 with any individual unless the contract or grant includes a certification by the individual that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

(Source: P.A. 86-1459.)

EMPLOYEE SANCTIONS AND REMEDIES

(30 ILCS 580/5) (from Ch. 127, par. 132.315)

Sec. 5. Employee sanctions and remedies. A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction of a violation of a criminal drug statute occurring in the workplace:

(a) Take appropriate personnel action against such employee up to and including termination; or

(b) Require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, State, or local health, law enforcement, or other appropriate agency.

(Source: P.A. 86-1459.)

SUSPENSION, TERMINATION OR DEBARMENT OF THE CONTRACTOR OR GRANTEE

(30 ILCS 580/6) (from Ch. 127, par. 132.316)

Sec. 6. Suspension, termination or debarment of the contractor or grantee. Each contract or grant awarded by the State shall be subject to suspension of payments or termination, or both, and the contractor or grantee thereunder or the individual who entered the contract with or received the grant from the State shall be subject to suspension or debarment in accordance with the requirements of this Section if the head of the agency determines that:

(a) the contractor, grantee, or individual has made a false certification under Section 3 or 4;

(b) the contractor or grantee violates such certification by failing to carry out the requirements of Section 3;

(c) the contractor or grantee does not take appropriate remedial action against employees convicted on drug offenses as specified in Section 5; or

(d) such a number of employees of the contractor or grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor or grant recipient has failed to make a good faith effort to provide a drug free workplace as required by this Act.

(Source: P.A. 86-1459; 87-895.)

SUSPENSION, TERMINATION OR DEBARMENT PROCEEDINGS

(30 ILCS 580/7) (from Ch. 127, par. 132.317)

Sec. 7. Suspension, termination or debarment proceedings. Any determination proceedings for suspension of payments, termination, or debarment pursuant to this Act shall be conducted in accordance with The Illinois Administrative Procedure Act.

(Source: P.A. 86-1459.)

EFFECT OF DEBARMENT

(30 ILCS 580/8) (from Ch. 127, par. 132.318)

Sec. 8. Effect of debarment. Upon issuance of any final decision under this Act requiring debarment of a contractor, grantee or individual, such contractor, grantee or individual shall be

ineligible for award of any contract or grant by the State for at least one year but not more than 5 years, as specified in the decision.

(Source: P.A. 86-1459.)

WAIVER

(30 ILCS 580/9) (from Ch. 127, par. 132.319)

Sec. 9. Waiver. A termination, suspension of payments, or suspension or debarment under this Act may be waived by the head of an agency with respect to a particular contract or grant if the head of the agency determines that suspension of payments, termination of the contract or grant, or suspension or debarment of the contractor, grantee, or individual, as the case may be, would severely disrupt the operation of such agency to the detriment of the general public or would not be in the public interest.

(Source: P.A. 86-1459.)

APPLICATION AND COMPLIANCE

(30 ILCS 580/10) (from Ch. 127, par. 132.320)

Sec. 10. At the time of entering into a contract or issuing a grant that results in the application of this Act, the State agency letting the contract or issuing the grant must notify the corporation, partnership, or other entity with 25 or more employees or the department, division, or unit of the corporation, partnership, or other entity of the application of this Act and of the necessity of compliance.

(Source: P.A. 86-1459.)

REBUTTABLE PRESUMPTION

(30 ILCS 580/11) (from Ch. 127, par. 132.321)

Sec. 11. Any actions undertaken by a contractor or grantee in compliance with this Act and in establishing a drug-free workplace shall create a rebuttable presumption of good faith compliance with this Act and shall not be considered a violation of the Illinois Human Rights Act.

(Source: P.A. 86-1459.)

STATE PROHIBITION OF GOODS FROM FORCED LABOR ACT 30 ILCS 583/

SHORT TITLE

(30 ILCS 583/1)

Sec. 1. Short title. This Act may be cited as the State Prohibition of Goods from Forced Labor Act.

(Source: P.A. 93-307, eff. 1-1-04.)

POLICY

(30 ILCS 583/5)

Sec. 5. Policy. The General Assembly hereby finds and declares as follows:

(a) The people of Illinois do not support the import of any goods made by forced, convict, or indentured labor, not only because it is a cruel suppression of the human right of free labor and employment practices, but also because it creates an unfair trade advantage for the forced, convict, or indentured labor country.

(b) The federal Tariff Act of 1930, while prohibiting the importation of any goods produced in whole or in part by forced, convict, or indentured labor, does not require importers to provide certificates of origin at the time of importation to affirm and guarantee no forced, convict, or indentured labor content.

(c) The federal Tariff Act of 1930 also does not require the United States Customs Service to have an active, self-initiated foreign surveillance program of detecting forced, convict, or indentured labor-made goods and preventing their entry into the United States, but relies primarily upon complaints made by the public or other interested groups.

(d) The State of Illinois wholeheartedly supports the prohibition on imports produced in whole or in part by forced, convict, or indentured labor and shall not knowingly acquire any of those goods.

(Source: P.A. 93-307, eff. 1-1-04.)

CONTRACT CERTIFICATION

(30 ILCS 583/10)

Sec. 10. Contract certification.

(a) Every contract entered into by any State agency for the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, must specify that no foreign-made equipment, materials, or supplies furnished to the State under the contract may be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. The contractor must agree to comply with this provision of the contract.

(b) Any contractor contracting with the State who knew that the foreign-made equipment, materials, or supplies furnished to the State were produced in whole or part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a contract under subsection (a), may, subject to subsection (c), have any or all of the following sanctions imposed:

(1) The contract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the State agency to which the equipment, materials, or supplies were provided.

(2) The contractor may be assessed a penalty which must be the greater of \$1,000 or an amount equaling 20% of the value of the equipment, materials, or supplies that the State agency demonstrates were produced in whole or in part by forced labor,

convict labor, or indentured labor under penal sanction and that were supplied to the State agency under the contract.

(3) The contractor may be suspended from bidding on a State contract for a period not to exceed 360 days.

Any moneys collected under this subsection shall be deposited into the General Revenue Fund.

(c) When imposing the sanctions described in subsection (b), the contracting agency must notify the contractor of the right to a hearing if requested within 15 days after the date of the notice. The hearing must be before an administrative law judge according to the Illinois Administrative Procedure Act. The administrative law judge must consider any measures the contractor has taken to ensure compliance with this Section and may waive any or all of the sanctions if it is determined that the contractor has acted in good faith.

The agency must be assessed the cost of the administrative hearing, unless the agency has prevailed in the hearing, in which case the contractor shall be assessed the cost of the hearing.

(d) Any State agency that investigates a complaint against a contractor for violation of this Section must limit its investigation to evaluating the information provided by the person or entity submitting the complaint and the information provided by the contractor.

(e) For purposes of this Section, the term "forced labor" has the same meaning as in the federal Tariff Act of 1930.

(Source: P.A. 93-307, eff. 1-1-04.)

PUBLIC OFFICER PROHIBITED ACTIVITIES ACT

50 ILCS 105/

SHORT TITLE

(50 ILCS 105/0.01) (from Ch. 102, par. 0.01)

Sec. 0.01. Short title. This Act may be cited as the Public Officer Prohibited Activities Act.

(Source: P.A. 86-1324.)

COUNTY BOARD; RESTRICTIONS

(50 ILCS 105/1) (from Ch. 102, par. 1)

Sec. 1. County board. No member of a county board, during the term of office for which he or she is elected, may be appointed to, accept, or hold any office other than (i) chairman of the county board or member of the regional planning commission by appointment or election of the board of which he or she is a member or (ii) alderman of a city or member of the board of trustees of a village or incorporated town if the city, village, or incorporated town has fewer than 1,000 inhabitants and is located in a county having fewer than 50,000 inhabitants, unless he or she first resigns from the office of county board member or unless the holding of another office is authorized by law. Any such prohibited appointment or election is void. This Section shall not preclude a member of the county board from being selected or from serving as a member of a County Extension Board as provided in Section 7 of the County Cooperative Extension Law, as a member of an Emergency Telephone System Board as provided in Section 15.4 of the Emergency Telephone System Act, or as appointed members of the board of review as provided in Section 6-30 of the Property Tax Code. Nothing in this Act shall be construed to prohibit an elected county official from holding elected office in another unit of local government so long as there is no contractual relationship between the county and the other unit of local government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment.

(Source: P.A. 91-732, eff. 1-1-01; 92-111, eff. 1-1-02.)

COUNTY BOARD; HIGHWAY COMMISSIONER

(50 ILCS 105/1.1) (from Ch. 102, par. 1.1)

Sec. 1.1. A member of the county board in a county having fewer than 550,000 inhabitants, during the term of office for which he is elected, may also hold the office of township highway commissioner.

(Source: P.A. 86-1330.)

COUNTY BOARD MEMBER; EDUCATION OFFICE

(50 ILCS 105/1.2)

Sec. 1.2. County board member; education office. A member of the county board in a county having fewer than 40,000 inhabitants, during the term of office for which he or she is elected, may also hold the office of member of the board of education, regional board of school trustees, board of school directors, or board of school inspectors.

(Source: P.A. 88-471.)

EDUCATION OFFICE

(50 ILCS 105/1.3)

Sec. 1.3. Municipal board member; education office. In a city, village, or incorporated town with fewer than 2,500 inhabitants, an alderman of the city or a member of the board of trustees of a village or incorporated town, during the term of office for which he or she is

elected, may also hold the office of member of the board of education, regional board of school trustees, board of school directors, or board of school inspectors.

(Source: P.A. 91-161, eff. 7-16-99.)

RESTRICTIONS OF APPOINTMENTS BY MAYOR OR PRESIDENT OF THE BOARD OF TRUSTEES

(50 ILCS 105/2) (from Ch. 102, par. 2)

Sec. 2. No alderman of any city, or member of the board of trustees of any village, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the mayor or president of the board of trustees, unless the alderman or board member is granted a leave of absence from such office, or unless he or she first resigns from the office of alderman or member of the board of trustees, or unless the holding of another office is authorized by law. The alderman or board member may, however, serve as a volunteer fireman and receive compensation for that service. Any appointment in violation of this

Section is void. Nothing in this Act shall be construed to prohibit an elected municipal official from holding elected office in another unit of local government as long as there is no contractual relationship between the municipality and the other unit of local government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment.

(Source: P.A. 89-89, eff. 6-30-95.)

TOWNSHIP SUPERVISORS AND TRUSTEES

(50 ILCS 105/2a) (from Ch. 102, par. 2a)

Sec. 2a. Township supervisors and trustees. No township supervisor or trustee, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the board of township trustees unless he or she first resigns from the office of supervisor or trustee or unless the appointment is specifically authorized by law. A supervisor or trustee may, however, serve as a volunteer fireman and receive compensation for that service. Any appointment in violation of this Section is void. Nothing in this Act shall be construed to prohibit an elected township official from holding elected office in another unit of local government as long as there is no contractual relationship between the township and the other unit of local government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment.

(Source: P.A. 89-89, eff. 6-30-95.)

PROHIBITED INTEREST IN CONTRACTS

(50 ILCS 105/3) (from Ch. 102, par. 3)

Sec. 3. Prohibited interest in contracts.

(a) No person holding any office, either by election or appointment under the laws or Constitution of this State, may be in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote. No such officer may represent, either as agent or otherwise, any person, association, trust, or corporation, with respect to any application or bid for any contract or work in regard to which such officer may be called upon to vote. Nor may any such officer take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation hereof is void. This Section shall not apply to any person serving on an advisory panel or commission or to any director serving on a hospital district board as provided under subsection (a-5) of Section 13 of the Hospital District Law.

(b) However, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor, subject to the following provisions under either paragraph (1) or (2):

(1) If:

A. the contract is with a person, firm, partnership, association, corporation, or cooperative association in which such interested member of the governing body of the municipality has less than a 7 1/2% share in the ownership; and

B. such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and

C. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum; and

D. such contract is approved by a majority vote of those members presently holding office; and

E. the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds \$1500, or awarded without bidding if the amount of the contract is less than \$1500; and

F. the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed \$25,000.

(2) If:

A. the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

B. the amount of the contract does not exceed \$2,000; and

C. the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed \$4,000; and

D. such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and

E. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

(b-5) In addition to the above exemptions, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:

A. the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a 1% share in the ownership; and

B. the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

C. such interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and

D. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

(c) A contract for the procurement of public utility services by a public entity with a public utility company is not barred by this Section by one or more members of the governing body of the public entity being an officer or employee of the public utility company or holding an ownership interest of no more than 7 1/2% in the public utility company, or holding an ownership interest of any size if the public entity is a municipality with a population of less than 7,500 and the public utility's rates are approved by the Illinois Commerce Commission. An elected or

appointed member of the governing body of the public entity having such an interest shall be deemed not to have a prohibited interest under this Section.

(d) Notwithstanding any other provision of this Section or any other law to the contrary, until January 1, 1994, a member of the city council of a municipality with a population under 20,000 may purchase real estate from the municipality, at a price of not less than 100% of the value of the real estate as determined by a written MAI certified appraisal or by a written certified appraisal of a State certified or licensed real estate appraiser, if the purchase is approved by a unanimous vote of the city council members then holding office (except for the member desiring to purchase the real estate, who shall not vote on the question).

(e) For the purposes of this Section only, a municipal officer shall not be deemed interested if the officer is an employee of a company or owns or holds an interest of 1% or less in the municipal officer's individual name in a company, or both, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market, provided the interested member: (i) publicly discloses the fact that he or she is an employee or holds an interest of 1% or less in a company before deliberation of the proposed award of the contract; (ii) refrains from evaluating, recommending, approving, deliberating, or otherwise participating in negotiation, approval, or both, of the contract, work, or business; (iii) abstains from voting on the award of the contract though he or she shall be considered present for purposes of establishing a quorum; and (iv) the contract is approved by a majority vote of those members currently holding office.

A municipal officer shall not be deemed interested if the officer owns or holds an interest of 1% or less, not in the officer's individual name but through a mutual fund, in a company, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market.

(Source: P.A. 90-197, eff. 1-1-98; 90-364, eff. 1-1-98; 90-655, eff. 7-30-98.)

CONTRACTS RELATING TO OWNERSHIP OR USE OF REAL PROPERTY

(50 ILCS 105/3.1) (from Ch. 102, par. 3.1)

Sec. 3.1. Before any contract relating to the ownership or use of real property is entered into by and between the State or any local governmental unit or any agency of either the identity of every owner and beneficiary having any interest, real or personal, in such property, and every member, shareholder, limited partner, or general partner entitled to receive more than 7 1/2% of the total distributable income of any limited liability company, corporation, or limited partnership having any interest, real or personal, in such property must be disclosed. The disclosure shall be in writing and shall be subscribed by a member, owner, authorized trustee, corporate official, general partner, or managing agent, or his or her authorized attorney, under oath. However, if the interest, stock, or shares in a limited liability company, corporation, or general partnership is publicly traded and there is no readily known individual having greater than a 7 1/2% interest, then a statement to that effect, subscribed to under oath by a member, officer of the corporation, general partner, or managing agent, or his or her authorized attorney, shall fulfill the disclosure statement requirement of this Section. As a condition of contracts entered into on or after the effective date of this amendatory Act of 1995, the beneficiaries of a lease shall furnish the trustee of a trust subject to disclosure under this Section with a binding non-revocable letter of direction authorizing the trustee to provide the State with an up-to-date disclosure whenever requested by the State. The letter of direction shall be binding on beneficiaries' heirs, successors, and assigns during the term of the contract. This Section shall be liberally construed to accomplish the purpose of requiring the identification of the actual parties benefiting from any transaction with a governmental unit or agency involving the procurement of the ownership or use of real property thereby.

For any entity that is wholly or partially owned by another entity, the names of the owners of the wholly or partially owning entity shall be disclosed under this Section, as well as the names of the owners of the wholly or partially owned entity.
(Source: P.A. 91-361, eff. 7-29-99.)

PECUNIARY INTEREST

(50 ILCS 105/3.2) (from Ch. 102, par. 3.2)

Sec. 3.2. Pecuniary interest allowed in contracts of deposit and financial service with local banks and savings and loan associations. Nothing contained in this Act, including the restrictions set forth in subsections (b), (c), and (d) of Section 3, shall preclude a contract of deposit of monies, loans, or other financial services by a unit of local government, school district, community college district, State university, or a police or firefighter's pension fund established under Article 3 or 4 of the Illinois Pension Code with a local bank or local savings and loan association, regardless of whether a member or members of the governing body of the unit (including any director serving on a hospital district board as provided under subsection (a-5) of Section 13 of the Hospital District Law) are interested in the bank or savings and loan association as a director, an officer, employee, or holder of less than 7 1/2% of the total ownership interest. A member or members holding such an interest in such a contract shall not be deemed to be holding a prohibited interest for purposes of this Act. The interested member or members of the governing body must publicly state the nature and extent of their interest during deliberations concerning the proposed award of such a contract, but shall not participate in any further deliberations concerning the proposed award. The interested member or members shall not vote on such a proposed award. Any member or members abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of such a contract shall require approval by a majority vote of those members presently holding office. Consideration and award of any such contract in which a member or members are interested may only be made at a regularly scheduled public meeting of the governing body of the unit or district.

(Source: P.A. 90-197, eff. 1-1-98.)

VIOLATIONS OF PROVISIONS OF THIS ACT

(50 ILCS 105/4) (from Ch. 102, par. 4)

Sec. 4. Any alderman, member of a board of trustees, supervisor or county commissioner, or other person holding any office, either by election or appointment under the laws or constitution of this state, who violates any provision of the preceding sections, is guilty of a Class 4 felony and in addition thereto, any office or official position held by any person so convicted shall become vacant, and shall be so declared as part of the judgment of court.

(Source: P.A. 77-2721.)

FALSE VERIFICATION; PERJURY

(50 ILCS 105/4.5)

Sec. 4.5. False verification; perjury. A person is guilty of perjury who:

(1) In swearing on oath or otherwise affirming a statement in writing as required under this Act, knowingly makes a false statement as to, or knowingly omits a material fact relating to, the identification of an individual or entity that has an ownership interest in real property, or that is material to an issue or point in question in the written disclosure pertaining to a contract for the ownership or use of real property.

(2) Having taken a lawful oath or made affirmation, testifies willfully and falsely as to any of those matters for the purpose of inducing the State or any local governmental unit or any agency of either to enter into a contract for the ownership or use of real property.

(3) Suborns any other person to so swear, affirm, or testify.

Upon conviction of perjury, a person shall be sentenced as provided in Section 32-2 or 32-3, respectively, of the Criminal Code of 1961 for those offenses.

This Section applies to written statements made or testimony given on or after the effective date of this amendatory Act of 1995.

(Source: P.A. 89-91, eff. 6-30-95.)

LOCAL GOVERNMENT PROFESSIONAL SERVICES SELECTION ACT 50 ILCS 510/

SHORT TITLE

(50 ILCS 510/0.01) (from Ch. 85, par. 6400)

Sec. 0.01. Short title. This Act may be cited as the Local Government Professional Services Selection Act.

(Source: P.A. 86-1324.)

POLICY

(50 ILCS 510/1) (from Ch. 85, par. 6401)

Sec. 1. Policy. It shall be the policy of the political subdivisions of the State of Illinois to negotiate and enter into contracts for architectural, engineering and land surveying services on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable compensation.

(Source: P.A. 85-854.)

FEDERAL REQUIREMENTS

(50 ILCS 510/2) (from Ch. 85, par. 6402)

Sec. 2. Federal Requirements. In the procurement of architectural, engineering and land surveying services and in the awarding of contracts, a political subdivision of the State of Illinois may comply with federal law and regulations and take all necessary steps to adapt its rules, specifications, policies and procedures accordingly to remain eligible for federal aid.

(Source: P.A. 85-854.)

DEFINITIONS

(50 ILCS 510/3) (from Ch. 85, par. 6403)

Sec. 3. Definitions. As used in this Act unless the context specifically requires otherwise:

(1) "Firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of architecture, engineering or land surveying and provide architectural, engineering or land surveying services.

(2) "Architectural services" means any professional service as defined in Section 5 of the Illinois Architecture Practice Act of 1989.

(3) "Engineering services" means any professional service as defined in Section 4 of the Professional Engineering Practice Act of 1989 or Section 5 of the Structural Engineering Practice Act of 1989.

(4) "Land surveying services" means any professional service as defined in Section 5 of the Illinois Professional Land Surveyor Act of 1989.

(5) "Political subdivision" means any school district and any unit of local government of fewer than 3,000,000 inhabitants, except home rule units.

(6) "Project" means any capital improvement project or any study, plan, survey or new or existing program activity of a political subdivision, including development of new or existing programs which require architectural, engineering or land surveying services.

(Source: P.A. 91-91, eff. 1-1-00.)

PUBLIC NOTICE

(50 ILCS 510/4) (from Ch. 85, par. 6404)

Sec. 4. Public notice. Present provisions of law notwithstanding, in the procurement of architectural, engineering or land surveying services, each political subdivision which utilizes

architectural, engineering or land surveying services shall permit firms engaged in the lawful practice of their professions to annually file a statement of qualifications and performance data with the political subdivision. Whenever a project requiring architectural, engineering or land surveying services is proposed for a political subdivision, the political subdivision shall, unless it has a satisfactory relationship for services with one or more firms:

(1) Mail a notice requesting a statement of interest in the specific project to all firms who have a current statement of qualifications and performance data on file with the political subdivision; or

(2) Place an advertisement in a secular English language daily newspaper of general circulation throughout such political subdivision, requesting a statement of interest in the specific project and further requesting statements of qualifications and performance data from those firms which do not have such a statement on file with the political subdivision. Such advertisement shall state the day, hour and place the statement of interest and the statements of qualifications and performance data shall be due.

(Source: P.A. 85-854.)

SELECTION PROCEDURE

(50 ILCS 510/5) (from Ch. 85, par. 6405)

Sec. 5. Selection Procedure. A political subdivision shall, unless it has a satisfactory relationship for services with one or more firms, evaluate the firms submitting letters of interest, taking into account qualifications, ability of professional personnel, past record and experience, performance data on file, willingness to meet time and budget requirements, location, workload of the firm and such other factors as the political subdivision may determine in writing are applicable. The political subdivision may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project and ability to furnish the required services.

(Source: P.A. 85-854.)

SELECTION PROCEDURE

(50 ILCS 510/6) (from Ch. 85, par. 6406)

Sec. 6. Selection procedure. On the basis of evaluations, discussions and presentations, the political subdivision shall, unless it has a satisfactory relationship for services with one or more firms, select no less than 3 firms which it determines to be the most qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The political subdivision shall then contact the firm ranked most preferred and attempt to negotiate a contract at a fair and reasonable compensation, taking into account the estimated value, scope, complexity, and professional nature of the services to be rendered. If fewer than 3 firms submit letters of interest and the political subdivision determines that one or both of those firms are so qualified, the political subdivision may proceed to negotiate a contract pursuant to this Section and Section 7.

(Source: P.A. 85-854.)

CONTRACT NEGOTIATION

(50 ILCS 510/7) (from Ch. 85, par. 6407)

Sec. 7. Contract negotiation. (1) The political subdivision shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified firm at compensation that the political subdivision determines in writing to be fair and reasonable. In making this decision the political subdivision shall take into account the estimated value, scope, complexity and professional nature of the services to be rendered.

(2) If the political subdivision is unable to negotiate a satisfactory contract with the firm which is most preferred, negotiations with that firm shall be terminated. The political subdivision shall then begin negotiations with the firm which is next preferred. If the political subdivision is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be terminated. The political subdivision shall then begin negotiations with the firm which is next preferred.

(3) If the political subdivision is unable to negotiate a satisfactory contract with any of the selected firms, the political subdivision shall re-evaluate the architectural, engineering or land surveying services requested, including the estimated value, scope, complexity and fee requirements. The political subdivision shall then compile a second list of not less than three qualified firms and proceed in accordance with the provisions of this Act.

(Source: P.A. 85-854.)

WAIVER OF COMPETITION

(50 ILCS 510/8) (from Ch. 85, par. 6408)

Sec. 8. Waiver of competition. A political subdivision may waive the requirements of Sections 4, 5, and 6 if it determines, by resolution, that an emergency situation exists and a firm must be selected in an expeditious manner, or the cost of architectural, engineering, and land surveying services for the project is expected to be less than \$25,000.

(Source: P.A. 87-1034.)

SOYBEAN INK ACT

50 ILCS 520/

SHORT TITLE

(50 ILCS 520/1)

Sec. 1. Short title. This Act may be known as the Soybean Ink Act.

(Source: P.A. 90-146, eff. 1-1-98.)

DEFINITION

(50 ILCS 520/5)

Sec. 5. Definition. As used in this Act, "printing" means and includes all processes and operations involved in printing and any type of photographic reproduction or other duplicating process, including but not limited to letterpress, offset, and gravure processes, the multilith method, any type of photographic or other duplicating process, and the operations of composition, platemaking, presswork, and binding. "Printing" also means the end products of those processes, methods, and operations. "Printing" does not include photocopiers used in the course of normal business activities, photographic equipment used for geographic mapping, or preprinted matter or printed matter that is commonly available to the general public from vendor inventory.

(Source: P.A. 90-146, eff. 1-1-98.)

USE OF SOYBEAN INK

(50 ILCS 520/10)

Sec. 10. Use of soybean ink. Contractors shall use soybean oil-based ink when providing printing services to units of local government and school districts unless the unit of local government or school district determines that another type of ink is required to assure high quality and reasonable pricing of the printed product.

(Source: P.A. 90-146, eff. 1-1-98.)

CONTRACTOR UNIFIED LICENSE AND PERMIT BOND ACT 50 ILCS 830/

SHORT TITLE

(50 ILCS 830/1)

Sec. 1. This Act may be cited as the Contractor Unified License and Permit Bond Act.

(Source: P.A. 90-712, eff. 8-7-98.)

APPLICATION

(50 ILCS 830/5)

Sec. 5. Application. Except for the City of Chicago, this Act applies to all counties, municipalities, and home rule units.

(Source: P.A. 90-712, eff. 8-7-98.)

DEFINITIONS

(50 ILCS 830/10)

Sec. 10. Definitions. As used in this Act,

"Contractor" means any person who, in any capacity other than as the employee of another for wages as the sole compensation, undertakes to construct, alter, repair, move, wreck, or demolish any fixture or structure. The term includes a subcontractor or specialty contractor, but does not include a person who furnishes only materials or supplies.

"Home rule unit" has the meaning provided in Section 6 of Article VII of the Illinois Constitution.

"Municipality" means a city, village, incorporated town, or township.

"Unified license and permit bond" means a single bond combining what are commonly known as a license bond and a permit bond, issued on a uniform document prescribed by the county board or board of county commissioners that includes the name of the county, the name and address of the contractor, the amount of the unified bond, the time period covered by the unified bond, and other required terms and conditions of the unified bond.

(Source: P.A. 90-712, eff. 8-7-98.)

RULES

(50 ILCS 830/15)

Sec. 15. Rules. The county board or county board of commissioners may adopt rules and enter into intergovernmental agreements to implement this Act.

(Source: P.A. 90-712, eff. 8-7-98.)

UNIFIED LICENSE AND PERMIT BOND

(50 ILCS 830/20)

Sec. 20. Unified license and permit bond.

(a) A contractor seeking to do work or doing work in a county or municipality may obtain a unified license and permit bond. This unified license and permit bond may be used by the contractor, at the contractor's discretion, instead of any other license or permit bond, or both, required of a contractor by the county or a municipality within that county. The bond shall be in the amount of at least \$50,000 for counties included within the provisions of the Northeastern Illinois Planning Act and in the amount of at least \$25,000 for all other counties.

(b) The unified license and permit bond shall be held for compliance with the ordinances and regulations governing contractors in the county or any municipality within that county where the contractor seeks to do work or is doing work. The unified bond required by this Act shall be

filed by the contractor with the county clerk. At the time of filing, the county clerk may charge a reasonable administration fee, determined by the county board or board of county commissioners.

(c) If a contractor elects to use a unified license and permit bond under this Act and the territory of a municipality where a contractor seeks to do or is doing work is included within more than one county, then the contractor shall obtain a unified license and permit bond from each county and shall file a unified bond with each of the respective county clerks whether or not the contractor seeks to do or is doing work in that part of the municipality included in only one of the counties.

In addition, the contractor shall file a certified copy of the unified bond with the clerk in the municipality within that county where the contractor seeks to do work or is doing work. At the time of the filing, the clerk may charge a reasonable administration fee, determined by the corporate authorities of the municipality.

(Source: P.A. 90-712, eff. 8-7-98.)

LOCAL PERMITS, LICENSES, OR PERFORMANCE BONDS

(50 ILCS 830/25)

Sec. 25. Local permits, licenses, or performance bonds. This Act does not prohibit a county or municipality within that county from requiring local permits, licenses, or performance bonds for contractors to do business in that county or municipality or from charging reasonable permit or license fees or reasonable amounts for performance bonds.

(Source: P.A. 90-712, eff. 8-7-98.)

HOME RULE

(50 ILCS 830/30)

Sec. 30. Home rule. A home rule unit may not regulate unified license and permit bonds for contractors in a manner inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(Source: P.A. 90-712, eff. 8-7-98.)

EFFECTIVE DATE

(50 ILCS 830/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 90-712, eff. 8-7-98.)

SERVICE CONTRACT ACT

215 ILCS 152/

SHORT TITLE

(215 ILCS 152/1)

Sec. 1. Short title. This Act may be cited as the Service Contract Act.

(Source: P.A. 90-711, eff. 8-7-98.)

DEFINITIONS

(215 ILCS 152/5)

Sec. 5. Definitions.

"Department" means the Department of Insurance.

"Director" means the Director of Insurance.

"Service Contract" means a contract or agreement whereby a service contract provider undertakes for a specified period of time, for separate and identifiable consideration, to perform the repair, replacement, or maintenance, or indemnification for such services, of any automobile, system, or consumer product in connection with the operational or structural failure due to a defect in materials or workmanship, or normal wear and tear, with or without additional provision for incidental payment or indemnity under limited circumstances, for related expenses, including, but not limited to, towing, rental, and emergency road service. Service contracts may provide for the repair, replacement, or maintenance of such property for damage resulting from power surges and accidental damage from handling. Service contracts shall not include contracts of limited duration that provide for scheduled maintenance only.

"Service contract holder" means the person who purchases a service contract or a permitted transferee.

"Service contract provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract. A service contract provider does not include an insurer.

"Service contract reimbursement insurance policy" means a policy of insurance that is issued to the service contract provider to provide reimbursement to the service contract provider or to pay on behalf of the service contract provider all covered contractual obligations incurred by the service contract provider under the terms and conditions of the insured service contracts issued or sold by the service contract provider.

"System" means the heating, cooling, plumbing, electrical, ventilation, or any other similar system of a home.

(Source: P.A. 90-711, eff. 8-7-98.)

EXEMPTIONS

(215 ILCS 152/10)

Sec. 10. Exemptions. Service contract providers and related service contract sellers and administrators complying with this Act are not required to comply with and are not subject to any provision of the Illinois Insurance Code. A service contract provider who is the manufacturer or a wholly-owned subsidiary of the manufacturer of the product or the builder, seller, or lessor of the product that is the subject of the service contract is required to comply only with Sections 30, 35, 45, and 50 of this Act; except that, a service contract provider who sells a motor vehicle, excluding a motorcycle as defined in Section 1-147 of the Illinois Vehicle Code, or who leases, but is not the manufacturer of, the motor vehicle, excluding a motorcycle as defined in Section 1-147 of the Illinois Vehicle Code, that is the subject of the service contract must comply with this Act in its entirety. Contracts for the repair and monitoring of private alarm or private security systems regulated under the Private Detective, Private Alarm, Private Security, and Locksmith

Act of 2004 are not required to comply with this Act and are not subject to any provision of the Illinois Insurance Code.

(Source: P.A. 92-16, eff. 6-28-01; 93-438, eff. 8-5-03.)

FINANCIAL REQUIREMENTS

(215 ILCS 152/15)

Sec. 15. Financial requirements. No service contract shall be issued, sold, or offered for sale in this State unless one of the following conditions are satisfied:

(1) (A) The service contract provider is insured under a service contract reimbursement insurance policy issued by an insurer authorized to do business in this State and providing that the insurer will pay to, or on behalf of, the service contract provider all sums that the service contract provider is legally obligated to pay according to the service contract provider's contractual obligations under the service contracts issued or sold by the service contract provider;

(B) a true and correct copy of the service contract reimbursement insurance policy has been filed with the Director by the service contract provider;

(C) the service contract states that the obligations of the service contract provider to the service contract holder are covered under a service contract reimbursement insurance policy; and

(D) the service contract states the name and address of the issuer of the service contract reimbursement insurance policy and states that in the event covered service is not provided by the service contract provider within 60 days of proof of loss by the service contract holder, the service contract holder may file directly with the service contract reimbursement insurance company.

(2) (A) The service contract provider maintains a funded reserve account for its obligations under its service contracts issued and outstanding in this State. The reserves shall not be less than 40% of the gross consideration received, less claims paid, for all service contracts sold and then in force;

(B) the service contract provider places in trust with the Director a financial security deposit, having a value of not less than 5% of the gross consideration received, less claims paid, for all service contracts sold and then in force, but not less than \$25,000, consisting of securities of the type eligible for deposit by authorized insurers in this State and;

(C) the service contract provider provides the Director with an audited financial statement annually of the service contract revenues and claims.

(3) (A) The service contract provider, or its parent company in accordance with subdivision (3)(B), maintains a net worth or stockholders' equity of \$100,000,000; and

(B) the service contract provider provides the Director with a copy of the service contract provider's or the service contract provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the last calendar year or, if the service contract provider does not file with the Securities and Exchange Commission, a copy of the service contract provider's or the service contract provider's parent company's audited financial statements that shows a net worth of the service contract provider or its parent company of at least \$100,000,000. If the service contract provider's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet the service provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the provider relating to service contracts issued by the service contract provider in this State.

(Source: P.A. 90-711, eff. 8-7-98.)

REIMBURSEMENT POLICY; REQUIRED PROVISIONS

(215 ILCS 152/20)

Sec. 20. Reimbursement policy; required provisions.

(a) No service contract reimbursement insurance policy shall be issued, sold, or offered for sale in this State unless the policy states that the issuer of the policy will reimburse or pay on behalf of the service contract provider all covered sums which the service contract provider is legally obligated to pay or will provide the service that the service contract provider is legally obligated to perform according to the service contract provider's contractual obligations under the provisions of the insured service contracts issued or sold by the service contract provider.

(b) If covered service is not provided by the service contract provider within 60 days of proof of loss by the service contract holder, the service contract holder may file directly with the insurance company writing the service contract reimbursement insurance policy.

(c) A service contract reimbursement insurance company that insures a service contract shall be deemed to have received payment of the premium if the service contract holder paid for the service contract coverage.

(d) If a service contract is canceled by a service contract holder, the service contract reimbursement insurance company shall be required to return the unearned service contract reimbursement insurance premium for that contract to the insured service contract provider. If the service contract provider fails to refund the amounts required under Section 35 of this Act, the service contract reimbursement insurance company shall be responsible for the refund to the service contract holder.

(Source: P.A. 90-711, eff. 8-7-98.)

REGISTRATION REQUIREMENTS FOR SERVICE CONTRACT PROVIDERS

(215 ILCS 152/25)

Sec. 25. Registration requirements for service contract providers.

(a) No service contract shall be issued or sold in this State until the following information has been submitted to the Department:

- (1) the name of the service contract provider;
- (2) a list identifying the service contract provider's executive officer or officers directly responsible for the service contract provider's service contract business;
- (3) the name and address of the service contract provider's agent for service of process in this State, if other than the service contract provider;
- (4) a true and accurate copy of all service contracts to be sold in this State; and
- (5) a statement indicating under which provision of Section 15 the service contract provider qualifies to do business in this State as a service contract provider.

(b) The service contract provider shall pay an initial registration fee of \$1,000 and a renewal fee of \$150 each year thereafter. All fees and penalties collected under this Act shall be paid to the Director and deposited in the Insurance Financial Regulation Fund.

(Source: P.A. 93-32, eff. 7-1-03.)

REQUIRED SERVICE CONTRACT DISCLOSURES

(215 ILCS 152/30)

Sec. 30. Required service contract disclosures. All service contracts issued or sold in this State shall contain the following disclosures written in clear and understandable language.

- (1) the name and address of the service contract provider;
- (2) the total consideration for the service contract paid by the service contract holder;
- (3) the conditions and procedures for obtaining service under the service contract, including the name, address, and local or toll-free telephone number of any person from whom approval is required before covered repairs may be commenced;
- (4) the existence and amount of a deductible, if any;

(5) merchandise and services to be provided and any limitations, exceptions, or exclusions;

(6) the terms, conditions, and restrictions governing transferability of the service contract, if any;

(7) the provisions governing cancellation and refunds in accordance with Section 35 of this Act; and

(8) whether or not the service contract covers failure resulting from normal wear and tear.

(Source: P.A. 90-711, eff. 8-7-98.)

CANCELLATION AND REFUNDS

(215 ILCS 152/35)

Sec. 35. Cancellation and refunds. No service contract may be issued, sold, or offered for sale in this State unless the service contract clearly states that the service contract holder is allowed to cancel the service contract. If the service contract holder elects cancellation, the service contract provider may retain a cancellation fee not to exceed the lesser of 10% of the service contract price or \$50. The service contract cancellation provision must provide that the service contract may be cancelled:

(1) within 30 days after its purchase if no service has been provided and that a full refund of the service contract consideration, less any cancellation fee stated in the service contract will be paid to the service contract holder; or

(2) at any other time and a pro rata refund of the service contract consideration for the unexpired term of the service contract, based on the number of elapsed months, miles, hours, or such other reasonably applicable measure which is clearly disclosed in the service contract, less the value of any service received, and any cancellation fee stated in the service contract will be paid to the service contract holder.

(Source: P.A. 90-711, eff. 8-7-98.)

INCIDENTAL BENEFITS

(215 ILCS 152/40)

Sec. 40. Incidental benefits. A service contract may provide full or partial reimbursement for other expenses incurred by the service contract holder as a direct and proximate result of an operational or structural failure if covered by the service contract. A reimbursement for these expenses shall not exceed the purchase price of the property serviced per incident.

(Source: P.A. 90-711, eff. 8-7-98.)

RECORD KEEPING REQUIREMENTS

(215 ILCS 152/45)

Sec. 45. Record keeping requirements.

(a) The service contract provider shall keep accurate accounts, books, and records concerning transactions regulated under this Act.

(b) The service contract provider's accounts, books, and records shall include the following:

(1) copies of each type of service contract sold;

(2) the name and address of each service contract holder, to the extent that the name and address has been furnished by the service contract holder;

(3) a list of the locations where service contracts are marketed, sold, or offered for sale; and

(4) written claims files which shall contain at least the date and description of claims related to the service contracts.

(c) Except as provided in subsection (e) of this Section, the service contract provider shall retain all records required to be maintained by Section 45 for at least 3 years after the specified period of coverage has expired.

(d) The records required under this Act may be, but are not required to be, maintained on a computer disk or other record keeping technology. If the records are maintained in other than hard copy, the records shall be capable of duplication to legible hard copy at the request of the Director.

(e) A service contract provider discontinuing business in this State shall maintain its records until it furnishes the Director satisfactory proof that it has discharged all obligations to service contract holders in this State.

(Source: P.A. 90-711, eff. 8-7-98.)

EXAMINATIONS AND ENFORCEMENT PROVISIONS

(215 ILCS 152/50)

Sec. 50. Examinations and enforcement provisions.

(a) The Director may conduct examinations of service contract providers, administrators, or other persons to enforce this Act and protect service contract holders in this State. Upon request of the Director, a service contract provider shall make available to the Director all accounts, books, and records concerning service contracts sold by the service contract provider that are necessary to enable the Director to reasonably determine compliance or noncompliance with this Act.

(b) The Director may take action that is necessary or appropriate to enforce the provisions of this Act and the Director's rules and orders and to protect service contract holders in this State. If a service contract provider engages in a pattern or practice of conduct that violates this Act and that the Director reasonably believes threatens to render the service contract provider insolvent or cause irreparable loss or injury to the property or business of any person or company located in this State, the Director may (i) issue an order directed to that service contract provider to cease and desist from engaging in further acts, practices, or transactions that are causing the conduct; (ii) issue an order prohibiting that service contract provider from selling or offering for sale service contracts in violation of this Act; (iii) issue an order imposing a civil penalty on that service contract provider; or (iv) issue any combination of the foregoing, as applicable. Prior to the effective date of any order issued pursuant to this subsection, the Director must provide written notice of the order to the service contract provider and the opportunity for a hearing to be held within 10 business days after receipt of the notice, except prior notice and hearing shall not be required if the Director reasonably believes that the service contract provider has become, or is about to become, insolvent.

A person aggrieved by an order issued under this Section may request a hearing before the Director. The hearing request shall be filed with the Director within 20 days after the date the Director's order is effective, and the Director must hold such a hearing within 15 days after receipt of the hearing request.

(c) At the hearing, the burden shall be on the Director to show why the order issued pursuant to this Section is justified. The provisions of Section 10-25 of the Illinois Administrative Procedure Act shall apply to a hearing request under this Section.

(d) The Director may bring an action in any court of competent jurisdiction for an injunction or other appropriate relief to enjoin threatened or existing violations of this Act or of the Director's orders or rules. An action filed under this Section also may seek restitution on behalf of persons aggrieved by a violation of this Act or orders or rules of the Director.

(e) A person who is found to have violated this Act or orders or rules of the Director may be ordered to pay to the Director a civil penalty in an amount, determined by the Director, of not more than \$500 per violation and not more than \$10,000 in the aggregate for all violations of a similar nature. For purposes of this Section, violations shall be of a similar nature if the violation

consists of the same or similar course of conduct, action, or practice, irrespective of the number of times the conduct, action, or practice that is determined to be a violation of this Act occurred.
(Source: P.A. 90-711, eff. 8-7-98.)

RULEMAKING POWER

(215 ILCS 152/55)

Sec. 55. Rulemaking power. The Director may adopt such administrative rules as are necessary to implement the provisions of this Act.
(Source: P.A. 90-711, eff. 8-7-98.)

APPLICABILITY

(215 ILCS 152/60)

Sec. 60. Applicability. This Act applies to all service contracts sold or offered for sale 90 or more days after the effective date of this Act.
(Source: P.A. 90-711, eff. 8-7-98.)

EFFECTIVE DATE

(215 ILCS 152/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.
(Source: P.A. 90-711, eff. 8-7-98.)

VETERANS PREFERENCE ACT

330 ILCS 55/

SHORT TITLE

(330 ILCS 55/0.01) (from Ch. 126 1/2, par. 22.9)

Sec. 0.01. Short title. This Act may be cited as the Veterans Preference Act.

(Source: P.A. 86-1324.)

DEFINITIONS

(330 ILCS 55/1) (from Ch. 126 1/2, par. 23)

Sec. 1. In the employment and appointment to fill positions in the construction, addition to, or alteration of all public works undertaken or contracted for by the State, or by any political subdivision thereof, preference shall be given to persons who have been members of the armed forces of the United States or who, while citizens of the United States, were members of the armed forces of allies of the United States in time of hostilities with a foreign country, and have served under one or more of the following conditions:

- (1) The veteran served a total of at least 6 months, or
- (2) The veteran served for the duration of hostilities regardless of the length of engagement, or
- (3) The veteran served in the theater of operations but was discharged on the basis of a hardship, or
- (4) The veteran was released from active duty because of a service connected disability and was honorably discharged. But such preference shall be given only to those persons who are found to possess the business capacity necessary for the proper discharge of the duties of such employment. No political subdivision or person contracting for such public works is required to give preference to veterans, not residents of such district, over residents thereof, who are not veterans.

As used in this Section:

"Time of hostilities with a foreign country" means any period of time in the past, present, or future during which a declaration of war by the United States Congress has been or is in effect or during which an emergency condition has been or is in effect that is recognized by the issuance of a Presidential proclamation or a Presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to Presidential executive order.

"Armed forces of the United States" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard. Service in the Merchant Marine that constitutes active duty under Section 401 of federal Public Law 95-202 shall also be considered service in the Armed Forces of the United States for purposes of this Section.

(Source: P.A. 87-796.)

TERM OF PREFERENCE

(330 ILCS 55/2) (from Ch. 126 1/2, par. 24)

Sec. 2. Every contract for such work shall contain a term providing for the preference given in Section 1.

(Source: Laws 1935, p. 1411.)

VIOLATIONS

(330 ILCS 55/3) (from Ch. 126 1/2, par. 25)

Sec. 3. Any person who knowingly and wilfully violates the provisions of this Act, is guilty of a petty offense and shall be fined not less than \$25, nor more than \$100 for each offense.

(Source: P. A. 77-2272.)

TOLL HIGHWAY ACT 605 ILCS 10/

CONTRACTS LET FOR CONSTRUCTION IN EXCESS OF \$10,000

(605 ILCS 10/16) (from Ch. 121, par. 100-16)

Sec. 16. All contracts let for the construction of any work authorized to be done under the provisions of the Act, where the amount thereof is in excess of the sum of \$10,000, shall be let to the lowest responsible bidder, or bidders, on open, competitive bidding after public advertisement made at least 15 days prior to the opening of bids, in a newspaper of general circulation published in each of the seven largest cities of the State, as determined by the last preceding Federal census, in such manner and at such intervals, as may be prescribed by the Authority except for contracts for the completion of a terminated or defaulted contract. The successful bidders for such work shall enter into contracts furnished and prescribed by the Authority. Such contracts shall contain a provision that such successful bidder shall indemnify and save harmless the State of Illinois for any accidental injuries or damages arising out of his negligence in the performance of such contract, and shall, and in addition, execute and give bonds, payable to the Authority, with a corporate surety authorized to do business under the laws of the State of Illinois, equal to at least 50% of the contract price, one conditioned upon faithful performance of the contract and the other for the payment of all labor furnished and materials supplied in the prosecution of the contracted work.

(Source: P.A. 86-1164.)

CONTRACTS FOR SERVICES OR SUPPLIES IN EXCESS OF \$7,500

(605 ILCS 10/16.1) (from Ch. 121, par. 100-16.1)

Sec. 16.1. (A) All contracts for services or supplies required from time to time by the Authority in the maintenance and operation of any toll highway or part thereof under the provisions of this Act or all direct contracts for supplies to be used in the construction of any toll highway or part thereof to be awarded under this Section, rather than as a part of a contract pursuant to Section 16 of this Act, when the amount of any such supplies or services is in excess of the sum of \$7,500 shall be let to the lowest responsible bidder or bidders, on open, competitive bidding after public advertisement made at least 5 days prior to the opening of bids, in a newspaper of general circulation in any city of over 500,000 population, or in any county through which the tollway passes, in such manner and on one or more occasions as may be prescribed by the Authority, except that bidding shall not be required in the following cases:

1. Where the goods or services to be procured are economically procurable from only one source, such as contracts for telephone service, electric energy and other public utility services, housekeeping services, books, pamphlets and periodicals and specially designed business equipment and software.

2. Where the services required are for professional, technical or artistic skills.

3. Where the services required are for advertising, promotional and public relations services.

4. In emergencies, provided that an affidavit of the person or persons authorizing the expenditure shall be filed with the Authority and the Auditor General within 10 days after such authorization setting forth the conditions and circumstances requiring the emergency purchase, the amount expended and the name of the vendor or contractor involved; if only an estimate is available, however, within the 10 days allowed for filing the affidavit, the actual cost shall be reported immediately after it is determined.

5. In case of expenditures for personal services.

6. Contracts for equipment and spare parts in support thereof for the maintenance and operation of any toll highway, or any part thereof, whenever, the

Authority shall, by resolution, declare and find that a particular make and type of equipment is required for efficient maintenance and operation and proper servicing, for uniformity in and integration with the spare parts program and inventory control, or for other reasons peculiar to the problems of the toll highway or its previously acquired equipment; however, competition and competitive bids shall be obtained by the Authority with respect to such specified equipment or spare parts, insofar as possible, and when effective, pursuant to public advertisement as hereinbefore provided.

7. Contracts for insurance, fidelity and surety bonds.

8. Contracts or agreements for the completion of a terminated or defaulted contract or agreement.

(B) The solicitation for bids shall be in conformance with accepted business practices and the method of solicitation shall be set out in detail in the rules and regulations of the Authority.

(C) Proposals received pursuant to public advertisement shall be publicly opened at the day and hour and at the place specified in the solicitation for such bids.

(D) Successful bidders for such services and supplies shall enter into contracts furnished and prescribed by the Authority.

(E) All purchases, contracts or other obligations or expenditures of funds by the Authority shall be in accordance with rules and regulations governing the Authority's procurement practice and procedures and the Authority shall promulgate and publish such practices and procedures in sufficient number for distribution to persons interested in bidding on purchases or contracts to be let by the Authority. Such rules and regulations shall be kept on file with the Secretary of the Authority at all times and shall be available for inspection by members of the public at all reasonable times and hours.

Such rules and regulations shall be filed and become effective in connection with the Illinois Administrative Procedure Act.

(F) Any contract entered into for purchase or expenditure of funds of the Authority made in violation of this Act or the rules and regulations in pursuance thereof is void and of no effect.

(G) Warrant. All sellers to the Authority shall attach a statement to the delivery invoice attesting that the standards set forth in the contracts have been met. The statement shall be substantially in the following form:

"The Seller,.... hereby certifies that the goods, merchandise and wares shipped in accordance with the attached delivery invoice have met all the required standards set forth in the purchasing contract.(Seller)."

(H) Whoever violates the provisions of this Section, or the rules and regulations adopted in pursuance thereof, is guilty of a Class A misdemeanor.

(Source: P.A. 86-1164.)

CRIMINAL CODE OF 1961

720 ILCS 5/

PUBLIC CONTRACTS

(720 ILCS 5/Art. 33E)

ARTICLE 33E.

PUBLIC CONTRACTS

720 ILCS 5/

INTERFERENCE WITH PUBLIC CONTRACTING

(720 ILCS 5/33E-1) (from Ch. 38, par. 33E-1)

Sec. 33E-1. Interference with public contracting. It is the finding of the General Assembly that the cost to the public is increased and the quality of goods, services and construction paid for by public monies is decreased when contracts for such goods, services or construction are obtained by any means other than through independent noncollusive submission of bids or offers by individual contractors or suppliers, and the evaluation of those bids or offers by the governmental unit pursuant only to criteria publicly announced in advance.

(Source: P.A. 85-1295.)

DEFINITIONS

(720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

Sec. 33E-2. Definitions. In this Act:

(a) "Public contract" means any contract for goods, services or construction let to any person with or without bid by any unit of State or local government.

(b) "Unit of State or local government" means the State, any unit of state government or agency thereof, any county or municipal government or committee or agency thereof, or any other entity which is funded by or expends tax dollars or the proceeds of publicly guaranteed bonds.

(c) "Change order" means a change in a contract term other than as specifically provided for in the contract which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion.

(d) "Person" means any individual, firm, partnership, corporation, joint venture or other entity, but does not include a unit of State or local government.

(e) "Person employed by any unit of State or local government" means any employee of a unit of State or local government and any person defined in subsection (d) who is authorized by such unit of State or local government to act on its behalf in relation to any public contract.

(f) "Sheltered market" has the meaning ascribed to it in Section 8b of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(g) "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

(h) "Prime contractor" means any person who has entered into a public contract.

(i) "Prime contractor employee" means any officer, partner, employee, or agent of a prime contractor.

(i-5) "Stringing" means knowingly structuring a contract or job order to avoid the contract or job order being subject to competitive bidding requirements.

(j) "Subcontract" means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining goods or services of any kind under a prime contract.

(k) "Subcontractor" (1) means any person, other than the prime contractor, who offers to furnish or furnishes any goods or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and (2) includes any person who offers to furnish or furnishes goods or services to the prime contractor or a higher tier subcontractor.

(l) "Subcontractor employee" means any officer, partner, employee, or agent of a subcontractor.

(Source: P.A. 92-16, eff. 6-28-01.)

BID-RIGGING

(720 ILCS 5/33E-3) (from Ch. 38, par. 33E-3)

Sec. 33E-3. Bid-rigging. A person commits the offense of bid-rigging when he knowingly agrees with any person who is, or but for such agreement would be, a competitor of such person concerning any bid submitted or not submitted by such person or another to a unit of State or local government when with the intent that the bid submitted or not submitted will result in the award of a contract to such person or another and he either (1) provides such person or receives from another information concerning the price or other material term or terms of the bid which would otherwise not be disclosed to a competitor in an independent noncollusive submission of bids or (2) submits a bid that is of such a price or other material term or terms that he does not intend the bid to be accepted.

Bid-rigging is a Class 3 felony. Any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be barred for 5 years from the date of conviction from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation as provided in paragraph (2) of subsection (a) of Section 5-4 of this Code.

(Source: P.A. 86-150.)

BID ROTATING

(720 ILCS 5/33E-4) (from Ch. 38, par. 33E-4)

Sec. 33E-4. Bid rotating. A person commits the offense of bid rotating when, pursuant to any collusive scheme or agreement with another, he engages in a pattern over time (which, for the purposes of this Section, shall include at least 3 contract bids within a period of 10 years, the most recent of which occurs after the effective date of this amendatory Act of 1988) of submitting sealed bids to units of State or local government with the intent that the award of such bids rotates, or is distributed among, persons or business entities which submit bids on a substantial number of the same contracts. Bid rotating is a Class 2 felony. Any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be permanently barred from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this

Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that

the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation as provided in paragraph (2) of subsection (a) of Section 5-4 of this Code.
(Source: P.A. 86-150.)

ACQUISITION OR DISCLOSURE OF BIDDING INFORMATION BY PUBLIC OFFICIAL

(720 ILCS 5/33E-5) (from Ch. 38, par. 33E-5)

Sec. 33E-5. Acquisition or disclosure of bidding information by public official. (a) Any person who is an official of or employed by any unit of State or local government who knowingly opens a sealed bid at a time or place other than as specified in the invitation to bid or as otherwise designated by the State or unit of local government, or outside the presence of witnesses required by the applicable statute or ordinance, commits a Class 4 felony.

(b) Any person who is an official of or employed by any unit of State or local government who knowingly discloses to any interested person any information related to the terms of a sealed bid whether that information is acquired through a violation of subsection (a) or by any other means except as provided by law or necessary to the performance of such official's or employee's responsibilities relating to the bid, commits a Class 3 felony.

(c) It shall not constitute a violation of subsection (b) of this

Section for any person who is an official of or employed by any unit of State or local government to make any disclosure to any interested person where such disclosure is also made generally available to the public.

(d) This Section only applies to contracts let by sealed bid.

(Source: P.A. 86-150.)

INTERFERENCE WITH CONTRACT SUBMISSION AND AWARD BY PUBLIC OFFICIAL

(720 ILCS 5/33E-6) (from Ch. 38, par. 33E-6)

Sec. 33E-6. Interference with contract submission and award by public official. (a) Any person who is an official of or employed by any unit of State or local government who knowingly conveys, either directly or indirectly, outside of the publicly available official invitation to bid, pre-bid conference, solicitation for contracts procedure or such procedure used in any sheltered market procurement adopted pursuant to law or ordinance by that unit of government, to any person any information concerning the specifications for such contract or the identity of any particular potential subcontractors, when inclusion of such information concerning the specifications or contractors in the bid or offer would influence the likelihood of acceptance of such bid or offer, commits a Class 4 felony. It shall not constitute a violation of this subsection to convey information intended to clarify plans or specifications regarding a public contract where such disclosure of information is also made generally available to the public.

(b) Any person who is an official of or employed by any unit of State or local government who, either directly or indirectly, knowingly informs a bidder or offeror that the bid or offer will be accepted or executed only if specified individuals are included as subcontractors commits a Class 3 felony.

(c) It shall not constitute a violation of subsection (a) of this

Section where any person who is an official of or employed by any unit of State or local government follows procedures established by federal, State or local minority or female owned business enterprise programs.

(d) Any bidder or offeror who is the recipient of communications from the unit of government which he reasonably believes to be proscribed by subsections (a) or (b), and fails to inform either the Attorney General or the State's Attorney for the county in which the unit of government is located, commits a Class A misdemeanor.

(e) Any public official who knowingly awards a contract based on criteria which were not publicly disseminated via the invitation to bid, when such invitation to bid is required by law or

ordinance, the pre-bid conference, or any solicitation for contracts procedure or such procedure used in any sheltered market procurement procedure adopted pursuant to statute or ordinance, commits a Class 3 felony.

(f) It shall not constitute a violation of subsection (a) for any person who is an official of or employed by any unit of State or local government to provide to any person a copy of the transcript or other summary of any pre-bid conference where such transcript or summary is also made generally available to the public.

(Source: P.A. 86-150.)

KICKBACKS

(720 ILCS 5/33E-7) (from Ch. 38, par. 33E-7)

Sec. 33E-7. Kickbacks. (a) A person violates this Section when he knowingly either:

(1) provides, attempts to provide or offers to provide any kickback;
(2) solicits, accepts or attempts to accept any kickback; or
(3) includes, directly or indirectly, the amount of any kickback prohibited by paragraphs (1) or (2) of this subsection (a) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to any unit of State or local government for a public contract.

(b) Any person violates this Section when he has received an offer of a kickback, or has been solicited to make a kickback, and fails to report it to law enforcement officials, including but not limited to the Attorney General or the State's Attorney for the county in which the contract is to be performed.

(c) A violation of subsection (a) is a Class 3 felony. A violation of subsection (b) is a Class 4 felony.

(d) Any unit of State or local government may, in a civil action, recover a civil penalty from any person who knowingly engages in conduct which violates paragraph (3) of subsection (a) of this Section in twice the amount of each kickback involved in the violation. This subsection (d) shall in no way limit the ability of any unit of State or local government to recover monies or damages regarding public contracts under any other law or ordinance. A civil action shall be barred unless the action is commenced within 6 years after the later of (1) the date on which the conduct establishing the cause of action occurred or (2) the date on which the unit of State or local government knew or should have known that the conduct establishing the cause of action occurred.

(Source: P.A. 85-1295.)

BRIBERY OF INSPECTOR EMPLOYED BY CONTRACTOR

(720 ILCS 5/33E-8) (from Ch. 38, par. 33E-8)

Sec. 33E-8. Bribery of inspector employed by contractor.

(a) A person commits bribery of an inspector when he offers to any person employed by a contractor or subcontractor on any public project contracted for by any unit of State or local government any property or other thing of value with the intent that such offer is for the purpose of obtaining wrongful certification or approval of the quality or completion of any goods or services supplied or performed in the course of work on such project. Violation of this subsection is a Class 4 felony.

(b) Any person employed by a contractor or subcontractor on any public project contracted for by any unit of State or local government who accepts any property or other thing of value knowing that such was intentionally offered for the purpose of influencing the certification or approval of the quality or completion of any goods or services supplied or performed under subcontract to that contractor, and either before or afterwards issues such wrongful certification, commits a Class 3 felony. Failure to report such offer to law enforcement

officials, including but not limited to the Attorney General or the State's Attorney for the county in which the contract is performed, constitutes a Class 4 felony.

(Source: P.A. 85-1295.)

CHANGE ORDERS

(720 ILCS 5/33E-9) (from Ch. 38, par. 33E-9)

Sec. 33E-9. Change orders. Any change order authorized under this Section shall be made in writing. Any person employed by and authorized by any unit of State or local government to approve a change order to any public contract who knowingly grants that approval without first obtaining from the unit of State or local government on whose behalf the contract was signed, or from a designee authorized by that unit of State or local government, a determination in writing that (1) the circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed, or (2) the change is germane to the original contract as signed, or (3) the change order is in the best interest of the unit of State or local government and authorized by law, commits a Class 4 felony. The written determination and the written change order resulting from that determination shall be preserved in the contract's file which shall be open to the public for inspection. This Section shall only apply to a change order or series of change orders which authorize or necessitate an increase or decrease in either the cost of a public contract by a total of \$10,000 or more or the time of completion by a total of 30 days or more.

(Source: P.A. 86-150; 87-618.)

RULES OF EVIDENCE

(720 ILCS 5/33E-10) (from Ch. 38, par. 33E-10)

Sec. 33E-10. Rules of evidence. (a) The certified bid is prima facie evidence of the bid.

(b) It shall be presumed that in the absence of practices proscribed by this Article 33E, all persons who submit bids in response to an invitation to bid by any unit of State or local government submit their bids independent of all other bidders, without information obtained from the governmental entity outside the invitation to bid, and in a good faith effort to obtain the contract.

(Source: P.A. 85-1295.)

CERTIFICATION BY PRIME CONTRACTOR

(720 ILCS 5/33E-11) (from Ch. 38, par. 33E-11)

Sec. 33E-11. (a) Every bid submitted to and public contract executed pursuant to such bid by the State or a unit of local government shall contain a certification by the prime contractor that the prime contractor is not barred from contracting with any unit of State or local government as a result of a violation of either Section 33E-3 or 33E-4 of this Article. The State and units of local government shall provide the appropriate forms for such certification.

(b) A contractor who makes a false statement, material to the certification, commits a Class 3 felony.

(Source: P.A. 86-150.)

VIOLATIONS

(720 ILCS 5/33E-12) (from Ch. 38, par. 33E-12)

Sec. 33E-12. It shall not constitute a violation of any provisions of this Article for any person who is an official of or employed by a unit of State or local government to (1) disclose the name of any person who has submitted a bid in response to or requested plans or specifications regarding an invitation to bid or who has been awarded a public contract to any person or, (2) to convey information concerning acceptable alternatives or substitute to plans or specifications if such information is also made generally available to the public and mailed to

any person who has submitted a bid in response to or requested plans or specifications regarding an invitation to bid on a public contract or, (3) to negotiate with the lowest responsible bidder a reduction in only the price term of the bid.

(Source: P.A. 86-150.)

CONTRACT NEGOTIATIONS

(720 ILCS 5/33E-13) (from Ch. 38, par. 33E-13)

Sec. 33E-13. Contract negotiations under the Local Government Professional Services Selection Act shall not be subject to the provisions of this Article.

(Source: P.A. 87-855.)

FALSE STATEMENTS ON VENDOR APPLICATIONS

(720 ILCS 5/33E-14)

Sec. 33E-14. False statements on vendor applications. Whoever knowingly makes any false statement or report, for the purpose of influencing in any way the action of any unit of local government or school district in considering a vendor application, is guilty of a Class 3 felony.

(Source: P.A. 90-800, eff. 1-1-99.)

FALSE ENTRIES

(720 ILCS 5/33E-15)

Sec. 33E-15. False entries. Any officer, agent, or employee of, or anyone who is affiliated in any capacity with any unit of local government or school district and makes a false entry in any book, report, or statement of any unit of local government or school district with the intent to defraud the unit of local government or school district, is guilty of a Class 3 felony.

(Source: P.A. 90-800, eff. 1-1-99.)

MISAPPLICATION OF FUNDS

(720 ILCS 5/33E-16)

Sec. 33E-16. Misapplication of funds. Whoever, being an officer, director, agent, or employee of, or affiliated in any capacity with any unit of local government or school district, willfully misapplies any of the moneys, funds, or credits of the unit of local government or school district is guilty of a Class 3 felony.

(Source: P.A. 90-800, eff. 1-1-99.)

UNLAWFUL PARTICIPATION

(720 ILCS 5/33E-17)

Sec. 33E-17. Unlawful participation. Whoever, being an officer, director, agent, or employee of, or affiliated in any capacity with any unit of local government or school district participates, shares in, or receiving directly or indirectly any money, profit, property, or benefit through any contract with the unit of local government or school district, with the intent to defraud the unit of local government or school district is guilty of a Class 3 felony.

(Source: P.A. 90-800, eff. 1-1-99.)

UNLAWFUL STRINGING OF BIDS

(720 ILCS 5/33E-18)

Sec. 33E-18. Unlawful stringing of bids.

(a) No person for the purpose of evading the bidding requirements of any unit of local government or school district shall knowingly string or assist in stringing, or attempt to string any contract or job order with the unit of local government or school district.

(b) Sentence. A person who violates this Section is guilty of a Class 4 felony.

(Source: P.A. 90-800, eff. 1-1-99.)

UNIFIED CODE OF CORRECTIONS 730 ILCS 5/

FINES; THEFT OFFENSES; LOCAL GOVERNMENT; SCHOOLS

(730 ILCS 5/5-9-1.3) (from Ch. 38, par. 1005-9-1.3)

Sec. 5-9-1.3. Fines for offenses involving theft, deceptive practices, and offenses against units of local government or school districts.

(a) When a person has been adjudged guilty of a felony under Section 16-1, 16-9 or 17-1 of the Criminal Code of 1961, a fine may be levied by the court in an amount which is the greater of \$25,000 or twice the value of the property which is the subject of the offense.

(b) When a person has been convicted of a felony under Section 16-1 of the Criminal Code of 1961 and the theft was committed upon any unit of local government or school district, or the person has been convicted of any violation of Sections 33C-1 through 33C-4 or Sections 33E-3 through 33E-18 of the Criminal Code of 1961, a fine may be levied by the court in an amount that is the greater of \$25,000 or treble the value of the property which is the subject of the offense or loss to the unit of local government or school district.

(c) All fines imposed under subsection (b) of this Section shall be distributed as follows:

(1) An amount equal to 30% shall be distributed to the unit of local government or school district that was the victim of the offense;

(2) An amount equal to 30% shall be distributed to the unit of local government whose officers or employees conducted the investigation into the crimes against the unit of local government or school district. Amounts distributed to units of local government shall be used solely for the enforcement of criminal laws protecting units of local government or school districts;

(3) An amount equal to 30% shall be distributed to the State's Attorney of the county in which the prosecution resulting in the conviction was instituted. The funds shall be used solely for the enforcement of criminal laws protecting units of local government or school districts; and

(4) An amount equal to 10% shall be distributed to the circuit court clerk of the county where the prosecution resulting in the conviction was instituted.

(d) A fine order under subsection (b) of this Section is a judgment lien in favor of the victim unit of local government or school district, the State's Attorney of the county where the violation occurred, the law enforcement agency that investigated the violation, and the circuit court clerk.

(Source: P.A. 90-800, eff. 1-1-99.)

HUMAN RIGHTS ACT 775 ILCS 5/

EQUAL EMPLOYMENT OPPORTUNITIES; AFFIRMATIVE ACTION

(775 ILCS 5/2-105) (from Ch. 68, par. 2-105)

Sec. 2-105. Equal Employment Opportunities; Affirmative Action.

(A) Public Contracts. Every party to a public contract and every eligible bidder shall:

(1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;

(2) Comply with the procedures and requirements of the Department's regulations concerning equal employment opportunities and affirmative action;

(3) Provide such information, with respect to its employees and applicants for employment, and assistance as the Department may reasonably request;

(4) Have written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) the vendor's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department and the Commission; (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of this Act. A copy of the policies shall be provided to the Department upon request.

(B) State Agencies. Every State executive department, State agency, board, commission, and instrumentality shall:

(1) Comply with the procedures and requirements of the Department's regulations concerning equal employment opportunities and affirmative action;

(2) Provide such information and assistance as the Department may request.

(3) Establish, maintain, and carry out a continuing affirmative action plan consistent with this Act and the regulations of the Department designed to promote equal opportunity for all State residents in every aspect of agency personnel policy and practice. For purposes of these affirmative action plans, the race and national origin categories to be included in the plans are: African American, Hispanic or Latino, Native American, Asian, and any other category as required by Department rule. This plan shall include a current detailed status report:

(a) indicating, by each position in State service, the number, percentage, and average salary of individuals employed by race, national origin, sex and disability, and any other category that the Department may require by rule;

(b) identifying all positions in which the percentage of the people employed by race, national origin, sex and disability, and any other category that the Department may require by rule, is less than four-fifths of the percentage of each of those components in the State work force;

(c) specifying the goals and methods for increasing the percentage by race, national origin, sex and disability, and any other category that the Department may require by rule, in State positions;

(d) indicating progress and problems toward meeting equal employment opportunity goals, including, if applicable, but not limited to, Department of Central Management Services recruitment efforts, publicity, promotions, and use of options designating positions by linguistic abilities;

(e) establishing a numerical hiring goal for the employment of qualified persons with disabilities in the agency as a whole, to be based on the proportion

of people with work disabilities in the Illinois labor force as reflected in the most recent decennial Census.

(4) If the agency has 1000 or more employees, appoint a full-time Equal Employment Opportunity officer, subject to the Department's approval, whose duties shall include:

(a) Advising the head of the particular State agency with respect to the preparation of equal employment opportunity programs, procedures, regulations, reports, and the agency's affirmative action plan.

(b) Evaluating in writing each fiscal year the sufficiency of the total agency program for equal employment opportunity and reporting thereon to the head of the agency with recommendations as to any improvement or correction in recruiting, hiring or promotion needed, including remedial or disciplinary action with respect to managerial or supervisory employees who have failed to cooperate fully or who are in violation of the program.

(c) Making changes in recruitment, training and promotion programs and in hiring and promotion procedures designed to eliminate discriminatory practices when authorized.

(d) Evaluating tests, employment policies, practices and qualifications and reporting to the head of the agency and to the Department any policies, practices and qualifications that have unequal impact by race, national origin as required by Department rule, sex or disability or any other category that the Department may require by rule, and to assist in the recruitment of people in underrepresented classifications. This function shall be performed in cooperation with the State Department of Central Management Services.

(e) Making any aggrieved employee or applicant for employment aware of his or her remedies under this Act.

In any meeting, investigation, negotiation, conference, or other proceeding between a State employee and an Equal Employment Opportunity officer, a State employee (1) who is not covered by a collective bargaining agreement and (2) who is the complaining party or the subject of such proceeding may be accompanied, advised and represented by (1) an attorney licensed to practice law in the State of Illinois or (2) a representative of an employee organization whose membership is composed of employees of the State and of which the employee is a member. A representative of an employee, other than an attorney, may observe but may not actively participate, or advise the State employee during the course of such meeting, investigation, negotiation, conference or other proceeding. Nothing in this Section shall be construed to permit any person who is not licensed to practice law in Illinois to deliver any legal services or otherwise engage in any activities that would constitute the unauthorized practice of law. Any representative of an employee who is present with the consent of the employee, shall not, during or after termination of the relationship permitted by this Section with the State employee, use or reveal any information obtained during the course of the meeting, investigation, negotiation, conference or other proceeding without the consent of the complaining party and any State employee who is the subject of the proceeding and pursuant to rules and regulations governing confidentiality of such information as promulgated by the appropriate State agency. Intentional or reckless disclosure of information in violation of these confidentiality requirements shall constitute a Class B misdemeanor.

(5) Establish, maintain and carry out a continuing sexual harassment program that shall include the following:

(a) Develop a written sexual harassment policy that includes at a minimum the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples;

(iv) the agency's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department and the Commission; (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of this Act. The policy shall be reviewed annually.

(b) Post in a prominent and accessible location and distribute in a manner to assure notice to all agency employees without exception the agency's sexual harassment policy. Such documents may meet, but shall not exceed, the 6th grade literacy level. Distribution shall be effectuated within 90 days of the effective date of this amendatory Act of 1992 and shall occur annually thereafter.

(c) Provide training on sexual harassment prevention and the agency's sexual harassment policy as a component of all ongoing or new employee training programs.

(6) Notify the Department 30 days before effecting any layoff. Once notice is given, the following shall occur:

(a) No layoff may be effective earlier than 10 working days after notice to the Department, unless an emergency layoff situation exists.

(b) The State executive department, State agency, board, commission, or instrumentality in which the layoffs are to occur must notify each employee targeted for layoff, the employee's union representative (if applicable), and the State Dislocated Worker Unit at the Department of Commerce and Economic Opportunity Community Affairs.

(c) The State executive department, State agency, board, commission, or instrumentality in which the layoffs are to occur must conform to applicable collective bargaining agreements.

(d) The State executive department, State agency, board, commission, or instrumentality in which the layoffs are to occur should notify each employee targeted for layoff that transitional assistance may be available to him or her under the Economic Dislocation and Worker Adjustment Assistance Act administered by the Department of Commerce and Economic Opportunity Community Affairs. Failure to give such notice shall not invalidate the layoff or postpone its effective date.

As used in this subsection (B), "disability" shall be defined in rules promulgated under the Illinois Administrative Procedure Act.

(C) Civil Rights Violations. It is a civil rights violation for any public contractor or eligible bidder to:

(1) fail to comply with the public contractor's or eligible bidder's duty to refrain from unlawful discrimination and discrimination based on citizenship status in employment under subsection (A)(1) of this Section; or

(2) fail to comply with the public contractor's or eligible bidder's duties of affirmative action under subsection (A) of this Section, provided however, that the Department has notified the public contractor or eligible bidder in writing by certified mail that the public contractor or eligible bidder may not be in compliance with affirmative action requirements of subsection (A). A minimum of 60 days to comply with the requirements shall be afforded to the public contractor or eligible bidder before the Department may issue formal notice of non-compliance.

(Source: P.A. 91-178, eff. 1-1-00; revised 12-6-03.)

PUBLIC WORKS EMPLOYMENT DISCRIMINATION ACT

775 ILCS 10/

SHORT TITLE

(775 ILCS 10/0.01) (from Ch. 29, par. 16.9)

Sec. 0.01. Short title. This Act may be cited as the Public Works Employment Discrimination Act.

(Source: P.A. 86-1324.)

UNLAWFUL DISCRIMINATION

(775 ILCS 10/1) (from Ch. 29, par. 17)

Sec. 1. (a) No person shall be refused or denied employment in any capacity on the ground of unlawful discrimination, as that term is defined in the Illinois Human Rights Act, nor be subjected to unlawful discrimination in any manner, in connection with the contracting for or the performance of any work or service of any kind, by, for, on behalf of, or for the benefit of this State, or of any department, bureau, commission, board, or other political subdivision or agency thereof.

(b) The Illinois Human Rights Act applies to all contracts identified in subsection (a).

(Source: P.A. 81-1216.)

PERFORMANCE OF CONTRACT

(775 ILCS 10/2) (from Ch. 29, par. 18)

Sec. 2. The provisions of this Act shall automatically enter into and become a part of each and every contract or other agreement hereafter entered into by, with, for, on behalf of, or for the benefit of this State, or of any department, bureau, commission, board, other political subdivision or agency, officer or agent thereof, providing for or relating to the performance of any of the said work or services or of any part thereof.

(Source: Laws 1933, p. 296.)

APPLICATION TO INDEPENDENT CONTRACTORS OR SUBCONTRACTORS

(775 ILCS 10/3) (from Ch. 29, par. 19)

Sec. 3. The provisions of this Act also shall apply to all contracts entered into by or on behalf of all independent contractors, subcontractors, and any and all other persons, associations or corporations, providing for or relating to the doing of any of the said work or the performance of any of the said services, or any part thereof.

(Source: Laws 1933, p. 296.)

DISCRIMINATION AND INTIMIDATION

(775 ILCS 10/4) (from Ch. 29, par. 20)

Sec. 4. No contractor, subcontractor, nor any person on his or her behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work for the benefit of the State or for any department, bureau, commission, board, other political subdivision or agency, officer or agent thereof, on account of race, color, creed, sex, religion, physical or mental handicap unrelated to ability, or national origin; and there may be deducted from the amount payable to the contractor by the State of Illinois or by any municipal corporation thereof, under this contract, a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Act.

(Source: P.A. 80-336.)

PETTY OFFENSE VIOLATION

(775 ILCS 10/5) (from Ch. 29, par. 21)

Sec. 5. Any person, agency, corporation or association who violates any of the provisions of this Act, or who aids, abets, incites or otherwise participates in the violation of any of the provisions, whether the violation or participation therein occurs through action in a private, public or in any official capacity, shall be guilty of a petty offense for each and every violation or participation therein with respect to each person aggrieved thereby, to be recovered by each such aggrieved person, or by any other person to whom such aggrieved person shall assign his cause of action, in the circuit court in the county in which the plaintiff or the defendant shall reside.

(Source: P.A. 79-1360.)

VIOLATIONS; PUNISHMENT

(775 ILCS 10/6) (from Ch. 29, par. 22)

Sec. 6. Any person who or any agency, corporation or association which shall violate any of the provisions of the foregoing sections, or who or which shall aid, abet, incite or otherwise participate in the violation of any of the said provisions, whether the said violation or participation therein shall occur through action in a private, in a public, or in any official capacity, shall also be deemed guilty of a petty offense for each and every said violation or participation or, in the case of non-corporate violators, or participators, of a Class B misdemeanor.

(Source: P. A. 77-2365.)

INSCRIPTION ON CONTRACT

(775 ILCS 10/7) (from Ch. 29, par. 23)

Sec. 7. The provisions of this Act shall be printed or otherwise inscribed on the face of each contract to which it shall be applicable, but their absence therefrom shall in no wise prevent or affect the application of the said provisions to the said contract.

(Source: Laws 1933, p. 296.)

INVALIDITY OR UNCONSTITUTIONALITY OF PROVISIONS

(775 ILCS 10/8) (from Ch. 29, par. 24)

Sec. 8. The invalidity or unconstitutionality of any one or more provisions, parts, or sections of this Act shall not be held or construed to invalidate the whole or any other provision, part, or section thereof, it being intended that this Act shall be sustained and enforced to the fullest extent possible and that it shall be construed as liberally as possible to prevent refusals, denials, and discriminations of and with reference to the award of contracts and employment thereunder, on the ground of race, color, creed, sex, religion, physical or mental handicap unrelated to ability, or national origin.

(Source: P.A. 80-336.)

DISCRIMINATORY CLUB ACT

775 ILCS 25/

SHORT TITLE

(775 ILCS 25/0.01) (from Ch. 68, par. 100)

Sec. 0.01. Short title. This Act may be cited as the Discriminatory Club Act.

(Source: P.A. 86-1324.)

DEFINITIONS

(775 ILCS 25/1) (from Ch. 68, par. 101)

Sec. 1. Definitions. (1) "Discrimination" means "unlawful discrimination" as defined by the Illinois Human Rights Act; (2) "discriminatory club" means a membership club, organization, association, or society, or the premises thereof, which practices discrimination in its membership policy or in access to its services and facilities, except any facility, as to discrimination based on sex, which is distinctly private in nature such as restrooms, shower rooms, bath houses, health clubs and other similar facilities for which the Illinois Department of Human Rights, in its rules and regulations, may grant exemptions based on bona fide considerations of public policy; (3) "meeting" means "meeting" as defined by the Open Meetings Act; (4) "official or employee of the State of Illinois" means any elected public official, any person appointed by an elected public official, or any other employee or agent (whether salaried or contractual), in service to the State of Illinois; (5) "public body" means "public body" as defined by the Open Meetings Act in addition to the General Assembly and committees and commissions thereof; (6) "private organization" means any person, partnership, corporation, association or agency which is not a public body.

(Source: P.A. 85-909.)

RESTRICTIONS OF PAYMENT OF DUES OR FEES

(775 ILCS 25/2) (from Ch. 68, par. 102)

Sec. 2. No private organization which sells goods or services to the State pursuant to The Illinois Purchasing Act, nor any private organization which receives any award or grant from the State, nor any public body may pay any dues or fees on behalf of its employees or agents or may subsidize or otherwise reimburse them for payments of their dues or fees to any discriminating club. The Illinois Department of Human Rights shall enforce this Section.

(Source: P.A. 85-909.)

MEETINGS AT DISCRIMINATORY CLUBS

(775 ILCS 25/3) (from Ch. 68, par. 103)

Sec. 3. No meeting may be held at any discriminatory club; however, a meeting may be held at any private club that is a fraternal or religious organization normally restrictive in its membership to persons of a specific group, provided that such organization does not discriminate unlawfully, within the meaning of the Illinois Human Rights Act, in its making available its facilities to non-member groups or agencies for the purposes of holding meetings.

(Source: P.A. 85-909.)

STATE OBLIGATIONS

(775 ILCS 25/4) (from Ch. 68, par. 104)

Sec. 4. No official or employee of the State of Illinois may obligate the State to any discriminatory club. The Comptroller shall enforce this Section upon notification from the Department of Human Rights.

(Source: P.A. 85-909.)

PREVAILING WAGE ACT 820 ILCS 130/

SHORT TITLE

(820 ILCS 130/0.01) (from Ch. 48, par. 39s-0.01)

Sec. 0.01. Short title. This Act may be cited as the Prevailing Wage Act.

(Source: P.A. 86-1324.)

POLICY OF THE STATE OF ILLINOIS

(820 ILCS 130/1) (from Ch. 48, par. 39s-1)

Sec. 1. It is the policy of the State of Illinois that a wage of no less than the general prevailing hourly rate as paid for work of a similar character in the locality in which the work is performed, shall be paid to all laborers, workers and mechanics employed by or on behalf of any and all public bodies engaged in public works.

(Source: P.A. 83-443.)

DEFINITIONS

(820 ILCS 130/2) (from Ch. 48, par. 39s-2)

Sec. 2. This Act applies to the wages of laborers, mechanics and other workers employed in any public works, as hereinafter defined, by any public body and to anyone under contracts for public works.

As used in this Act, unless the context indicates otherwise:

"Public works" means all fixed works constructed by any public body, other than work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects financed in whole or in part with bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of the Illinois Municipal Code), the Industrial Building Revenue Bond Act, the Illinois Finance Authority Act, the Illinois Sports Facilities Authority Act, or the Build Illinois Bond Act, and all projects financed in whole or in part with loans or other funds made available pursuant to the Build Illinois Act. "Public works" also includes all projects financed in whole or in part with funds from the Fund for Illinois' Future under Section 6z-47 of the State Finance Act, funds for school construction under Section 5 of the General Obligation Bond Act, funds authorized under Section 3 of the School Construction Bond Act, funds for school infrastructure under Section 6z-45 of the State Finance Act, and funds for transportation purposes under Section 4 of the General Obligation Bond Act. "Public works" also includes all projects financed in whole or in part with funds from the Department of Commerce and Economic Opportunity ~~Community Affairs~~ under the Illinois Renewable Fuels Development Program Act for which there is no project labor agreement.

"Construction" means all work on public works involving laborers, workers or mechanics.

"Locality" means the county where the physical work upon public works is performed, except (1) that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work and (2) that, with respect to contracts for highway work with the Department of Transportation of this State, "locality" may at the discretion of the Secretary of the Department of Transportation be construed to include two or more adjacent counties from which workers may be accessible for work on such construction.

"Public body" means the State or any officer, board or commission of the State or any political subdivision or department thereof, or any institution supported in whole or in part by

public funds, and includes every county, city, town, village, township, school district, irrigation, utility, reclamation improvement or other district and every other political subdivision, district or municipality of the state whether such political subdivision, municipality or district operates under a special charter or not.

The terms "general prevailing rate of hourly wages", "general prevailing rate of wages" or "prevailing rate of wages" when used in this Act mean the hourly cash wages plus fringe benefits for training and apprenticeship programs approved by the U.S. Department of Labor, Bureau of Apprenticeship and Training, health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works.

(Source: P.A. 92-16, eff. 6-28-01; 93-15, eff. 6-11-03; 93-16, eff. 1-1-04; 93-205, eff. 1-1-04; revised 1-12-04.)

CONSTRUCTION OF PUBLIC WORKS

(820 ILCS 130/3) (from Ch. 48, par. 39s-3)

Sec. 3. Not less than the general prevailing rate of hourly wages for work of a similar character on public works in the locality in which the work is performed, and not less than the general prevailing rate of hourly wages for legal holiday and overtime work, shall be paid to all laborers, workers and mechanics employed by or on behalf of any public body engaged in the construction of public works. Only such laborers, workers and mechanics as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job, and laborers, workers and mechanics engaged in the transportation of materials and equipment to or from the site, but not including the transportation by the sellers and suppliers or the manufacture or processing of materials or equipment, in the execution of any contract or contracts for public works with any public body shall be deemed to be employed upon public works. The wage for a tradesman performing maintenance is equivalent to that of a tradesman engaged in construction.

(Source: P.A. 93-15, eff. 6-11-03; 93-16, eff. 1-1-04.)

ASCERTAINING PREVAILING WAGES

(820 ILCS 130/4) (from Ch. 48, par. 39s-4)

(Text of Section before amendment by P.A. 93-38, in effect until June 1, 2004)

Sec. 4. The public body awarding any contract for public work or otherwise undertaking any public works, shall ascertain the general prevailing rate of hourly wages in the locality in which the work is to be performed, for each craft or type of worker or mechanic needed to execute the contract, and where the public body performs the work without letting a contract therefor, shall ascertain the prevailing rate of wages on a per hour basis in the locality, and such public body shall specify in the resolution or ordinance and in the call for bids for the contract, that the general prevailing rate of wages in the locality for each craft or type of worker or mechanic needed to execute the contract or perform such work, also the general prevailing rate for legal holiday and overtime work, as ascertained by the public body or by the Department of Labor shall be paid for each craft or type of worker needed to execute the contract or to perform such work, and it shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him, and where the public body performs the work, upon the public body, to pay not less than the specified rates to all laborers, workers and mechanics employed by them in the execution of the contract or such work; provided, however, that if the public body desires that the Department of Labor ascertain the prevailing rate of wages, it shall notify the Department of Labor to ascertain the general prevailing rate of hourly wages for work under contract, or for work performed by a public body without letting a contract as required in the locality in which the work is to be performed, for each craft or type of worker or mechanic needed to execute the contract or project or work to be performed. Upon such notification the

Department of Labor shall ascertain such general prevailing rate of wages, and certify the prevailing wage to such public body. The public body awarding the contract shall cause to be inserted in the contract a stipulation to the effect that not less than the prevailing rate of wages as found by the public body or Department of Labor or determined by the court on review shall be paid to all laborers, workers and mechanics performing work under the contract. It shall also require in all such contractor's bonds that the contractor include such provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract. All bid specifications shall list the specified rates to all laborers, workers and mechanics in the locality for each craft or type of worker or mechanic needed to execute the contract. If the Department of Labor revises the prevailing rate of hourly wages to be paid by the public body, the revised rate shall apply to such contract, and the public body shall be responsible to notify the contractor and each subcontractor, of the revised rate. Two or more investigatory hearings under this Section on the issue of establishing a new prevailing wage classification for a particular craft or type of worker shall be consolidated in a single hearing before the Department. Such consolidation shall occur whether each separate investigatory hearing is conducted by a public body or the Department. The party requesting a consolidated investigatory hearing shall have the burden of establishing that there is no existing prevailing wage classification for the particular craft or type of worker in any of the localities under consideration.

It shall be mandatory upon the contractor or construction manager to whom a contract for public works is awarded to post, at a location on the project site of the public works that is easily accessible to the workers engaged on the project, the prevailing wage rates for each craft or type of worker or mechanic needed to execute the contract or project or work to be performed. A failure to post a prevailing wage rate as required by this Section is a violation of this Act.

(Source: P.A. 92-783, eff. 8-6-02; 93-15, eff. 6-11-03; 93-16, eff. 1-1-04.)

(Text of Section after amendment by P.A. 93-38, taking effect June 1, 2004)

Sec. 4. (a) The public body awarding any contract for public work or otherwise undertaking any public works, shall ascertain the general prevailing rate of hourly wages in the locality in which the work is to be performed, for each craft or type of worker or mechanic needed to execute the contract, and where the public body performs the work without letting a contract therefor, shall ascertain the prevailing rate of wages on a per hour basis in the locality, and such public body shall specify in the resolution or ordinance and in the call for bids for the contract, that the general prevailing rate of wages in the locality for each craft or type of worker or mechanic needed to execute the contract or perform such work, also the general prevailing rate for legal holiday and overtime work, as ascertained by the public body or by the Department of Labor shall be paid for each craft or type of worker needed to execute the contract or to perform such work, and it shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him, and where the public body performs the work, upon the public body, to pay not less than the specified rates to all laborers, workers and mechanics employed by them in the execution of the contract or such work; provided, however, that if the public body desires that the Department of Labor ascertain the prevailing rate of wages, it shall notify the Department of Labor to ascertain the general prevailing rate of hourly wages for work under contract, or for work performed by a public body without letting a contract as required in the locality in which the work is to be performed, for each craft or type of worker or mechanic needed to execute the contract or project or work to be performed. Upon such notification the Department of Labor shall ascertain such general prevailing rate of wages, and certify the prevailing wage to such public body. The public body awarding the contract shall cause to be inserted in the project specifications and the contract a stipulation to the effect that not less than the prevailing rate of wages as found by the public body or Department of Labor or

determined by the court on review shall be paid to all laborers, workers and mechanics performing work under the contract.

(b) It shall also be mandatory upon the contractor to whom the contract is awarded to insert into each subcontract and into the project specifications for each subcontract a written stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract. It shall also be mandatory upon each subcontractor to cause to be inserted into each lower tiered subcontract and into the project specifications for each lower tiered subcontract a stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract. A contractor or subcontractor who fails to comply with this subsection (b) is in violation of this Act.

(c) It shall also require in all such contractor's bonds that the contractor include such provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract. All bid specifications shall list the specified rates to all laborers, workers and mechanics in the locality for each craft or type of worker or mechanic needed to execute the contract.

(d) If the Department of Labor revises the prevailing rate of hourly wages to be paid by the public body, the revised rate shall apply to such contract, and the public body shall be responsible to notify the contractor and each subcontractor, of the revised rate.

(e) Two or more investigatory hearings under this Section on the issue of establishing a new prevailing wage classification for a particular craft or type of worker shall be consolidated in a single hearing before the Department. Such consolidation shall occur whether each separate investigatory hearing is conducted by a public body or the Department. The party requesting a consolidated investigatory hearing shall have the burden of establishing that there is no existing prevailing wage classification for the particular craft or type of worker in any of the localities under consideration.

(f) It shall be mandatory upon the contractor or construction manager to whom a contract for public works is awarded to post, at a location on the project site of the public works that is easily accessible to the workers engaged on the project, the prevailing wage rates for each craft or type of worker or mechanic needed to execute the contract or project or work to be performed. A failure to post a prevailing wage rate as required by this Section is a violation of this Act.

(Source: P.A. 92-783, eff. 8-6-02; 93-15, eff. 6-11-03; 93-16, eff. 1-1-04; 93-38, eff. 6-1-04; revised 7-28-03.)

RECORD KEEPING OF LABORERS AND HOURLY WAGES PAID

(820 ILCS 130/5) (from Ch. 48, par. 39s-5)

(Text of Section before amendment by P.A. 93-38, in effect until June 1, 2004)

Sec. 5. The contractor and each subcontractor or the officer of the public body in charge of the project shall keep or cause to be kept, an accurate record showing the names and occupation of all laborers, workers and mechanics employed by them, in connection with said public work, and showing also the actual hourly wages paid to each of such persons, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the Director of Labor and his deputies and agents. Any contractor or subcontractor that maintains its principal place of business outside of this State shall make the required records or accurate copies of those records available within this State at all reasonable hours for inspection.

(Source: P.A. 92-783, eff. 8-6-02.)

(Text of Section after amendment by P.A. 93-38, taking effect June 1, 2004)

Sec. 5. The contractor and each subcontractor or the officer of the public body in charge of the project shall make and keep, for a period of not less than 3 years, true and accurate records of the name, address, telephone number when available, social security number, and occupation of all laborers, workers and mechanics employed by them, in connection with said public work. The records shall also show the actual hourly wages paid in each pay period to each employee and the hours worked each day in each work week by each employee. While participating on public works, each contractor's payroll records shall include the starting and ending times of work for each employee. The record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the Director of Labor and his deputies and agents. Any contractor or subcontractor that maintains its principal place of business outside of this State shall make the required records or accurate copies of those records available within this State at all reasonable hours for inspection.

(Source: P.A. 92-783, eff. 8-6-02; 93-38, eff. 6-1-04.)

RECORD VIOLATIONS

(820 ILCS 130/6) (from Ch. 48, par. 39s-6)

Sec. 6. Any officer, agent or representative of any public body who wilfully violates, or omits to comply with, any of the provisions of this Act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who neglects to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, worker and mechanic employed by him, in connection with the public work or who refuses to allow access to same at any reasonable hour to any person authorized to inspect same under this Act, is guilty of a Class B misdemeanor.

The Department of Labor shall inquire diligently as to any violation of this Act, shall institute actions for penalties herein prescribed, and shall enforce generally the provisions of this Act. The Attorney General shall prosecute such cases upon complaint by the Department or any interested person.

(Source: P.A. 81-992.)

FINDING AS TO PREVAILING WAGE

(820 ILCS 130/7) (from Ch. 48, par. 39s-7)

Sec. 7. The finding of the public body awarding the contract or authorizing the work or the Department of Labor ascertaining and declaring the general prevailing rate of hourly wages shall be final for all purposes of the contract for public work then being considered, unless reviewed under the provisions of this Act. Nothing in this Act, however, shall be construed to prohibit the payment to any laborer, worker or mechanic employed on any public work, as aforesaid, of more than the prevailing rate of wages; provided further that nothing in this Act shall be construed to limit the hours of work which may be performed by any person in any particular period of time.

(Source: P.A. 81-992.)

INABILITY OF THE DEPARTMENT OF LABOR TO ASCERTAIN PREVAILING RATE OF WAGE

(820 ILCS 130/8) (from Ch. 48, par. 39s-8)

Sec. 8. In the event the public body authorizing the work or the Department of Labor is unable to ascertain the prevailing rate of wage of any class of work required to be performed under the proposed contract, it is the duty of the Department of Labor where the determination of said prevailing rate has been referred to it to so notify the public body authorizing the proposed work, and it is the duty of the public body in either case to state the fact of inability to ascertain said prevailing rate in its resolution, ordinance or notice for bids in which event the

clause specifying the prevailing wage as to such class of work may be excluded from the contract unless such wage may be determined by the court on appeal as provided by this Act. (Source: Laws 1957, p. 2662.)

POSTING PREVAILING RATES; OBJECTIONS; APPEAL

(820 ILCS 130/9) (from Ch. 48, par. 39s-9)

(Text of Section before amendment by P.A. 93-38, in effect until June 1, 2004)

Sec. 9. To effectuate the purpose and policy of this Act each public body shall, during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages as defined in this Act and publicly post or keep available for inspection by any interested party in the main office of such public body its determination of such prevailing rate of wage and shall promptly file a certified copy thereof in the office of the Secretary of State at Springfield.

The Department of Labor shall during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages for each county in the State. If a public body does not investigate and ascertain the prevailing rate of wages during the month of June as required by the previous paragraph, then the prevailing rate of wages for that public body shall be the rate as determined by the Department under this paragraph for the county in which such public body is located.

Where the Department of Labor ascertains the prevailing rate of wages, it is the duty of the Department of Labor within 30 days after receiving a notice from the public body authorizing the proposed work, to conduct an investigation to ascertain the prevailing rate of wages as defined in this Act and such investigation shall be conducted in the locality in which the work is to be performed. The Department of Labor shall send a certified copy of its findings to the public body authorizing the work and keep a record of its findings available for inspection by any interested party in the office of the Department of Labor at Springfield.

The public body except for the Department of Transportation with respect to highway contracts shall within 30 days after filing with the Secretary of State, or the Department of Labor shall within 30 days after filing with such public body, publish in a newspaper of general circulation within the area that the determination is effective, a notice of its determination and shall promptly mail a copy of its determination to any employer, and to any association of employers and to any person or association of employees who have filed their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates.

At any time within 15 days after a certified copy of the determination has been published as herein provided, any person affected thereby may object in writing to the determination or such part thereof as they may deem objectionable by filing a written notice with the public body or Department of Labor, whichever has made such determination, stating the specified grounds of the objection. It shall thereafter be the duty of the public body or Department of Labor to set a date for a hearing on the objection after giving written notice to the objectors at least 10 days before the date of the hearing and said notice shall state the time and place of such hearing. Such hearing by a public body shall be held within 20 days after the objection is filed, and shall not be postponed or reset for a later date except upon the consent, in writing, of all the objectors and the public body. If such hearing is not held by the public body within the time herein specified, the Department of Labor may, upon request of the objectors, conduct the hearing on behalf of the public body.

The public body or Department of Labor, whichever has made such determination, is authorized in its discretion to hear each written objection filed separately or consolidate for hearing any one or more written objections filed with them. At such hearing the public body or Department of Labor shall introduce in evidence the investigation it instituted which formed the basis of its determination, and the public body or Department of Labor, or any interested objectors may thereafter introduce such evidence as is material to the issue. Thereafter, the

public body or Department of Labor, must rule upon the written objection and make such final determination as it believes the evidence warrants, and promptly file a certified copy of its final determination with such public body and the Secretary of State, and serve a copy by personal service or registered mail on all parties to the proceedings. The final determination by a public body shall be rendered within 10 days after the conclusion of the hearing.

If proceedings to review judicially the final determination of the public body or Department of Labor are not instituted as hereafter provided, such determination shall be final and binding.

The provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of any public body or the Department of Labor hereunder. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

Appeals from all final orders and judgments entered by the court in review of the final administrative decision of the public body or Department of Labor, may be taken by any party to the action.

Any proceeding in any court affecting a determination of the Department of Labor or public body shall have priority in hearing and determination over all other civil proceedings pending in said court, except election contests.

In all reviews or appeals under this Act, it shall be the duty of the Attorney General to represent the Department of Labor, and defend its determination. The Attorney General shall not represent any public body, except the State, in any such review or appeal.

(Source: P.A. 83-201.)

(Text of Section after amendment by P.A. 93-38, taking effect June 1, 2004)

Sec. 9. To effectuate the purpose and policy of this Act each public body shall, during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages as defined in this Act and publicly post or keep available for inspection by any interested party in the main office of such public body its determination of such prevailing rate of wage and shall promptly file, no later than July 15 of each year, a certified copy thereof in the office of the Secretary of State at Springfield and the office of the Illinois Department of Labor.

The Department of Labor shall during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages for each county in the State. If a public body does not investigate and ascertain the prevailing rate of wages during the month of June as required by the previous paragraph, then the prevailing rate of wages for that public body shall be the rate as determined by the Department under this paragraph for the county in which such public body is located.

Where the Department of Labor ascertains the prevailing rate of wages, it is the duty of the Department of Labor within 30 days after receiving a notice from the public body authorizing the proposed work, to conduct an investigation to ascertain the prevailing rate of wages as defined in this Act and such investigation shall be conducted in the locality in which the work is to be performed. The Department of Labor shall send a certified copy of its findings to the public body authorizing the work and keep a record of its findings available for inspection by any interested party in the office of the Department of Labor at Springfield.

The public body except for the Department of Transportation with respect to highway contracts shall within 30 days after filing with the Secretary of State, or the Department of Labor shall within 30 days after filing with such public body, publish in a newspaper of general circulation within the area that the determination is effective, a notice of its determination and shall promptly mail a copy of its determination to any employer, and to any association of employers and to any person or association of employees who have filed their names and

addresses, requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates.

At any time within 30 days after the Department of Labor has published on its official web site a prevailing wage schedule, any person affected thereby may object in writing to the determination or such part thereof as they may deem objectionable by filing a written notice with the public body or Department of Labor, whichever has made such determination, stating the specified grounds of the objection. It shall thereafter be the duty of the public body or Department of Labor to set a date for a hearing on the objection after giving written notice to the objectors at least 10 days before the date of the hearing and said notice shall state the time and place of such hearing. Such hearing by a public body shall be held within 45 days after the objection is filed, and shall not be postponed or reset for a later date except upon the consent, in writing, of all the objectors and the public body. If such hearing is not held by the public body within the time herein specified, the Department of Labor may, upon request of the objectors, conduct the hearing on behalf of the public body.

The public body or Department of Labor, whichever has made such determination, is authorized in its discretion to hear each written objection filed separately or consolidate for hearing any one or more written objections filed with them. At such hearing the public body or Department of Labor shall introduce in evidence the investigation it instituted which formed the basis of its determination, and the public body or Department of Labor, or any interested objectors may thereafter introduce such evidence as is material to the issue. Thereafter, the public body or Department of Labor, must rule upon the written objection and make such final determination as it believes the evidence warrants, and promptly file a certified copy of its final determination with such public body and the Secretary of State, and serve a copy by personal service or registered mail on all parties to the proceedings. The final determination by the Department of Labor or a public body shall be rendered within 30 days after the conclusion of the hearing.

If proceedings to review judicially the final determination of the public body or Department of Labor are not instituted as hereafter provided, such determination shall be final and binding.

The provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of any public body or the Department of Labor hereunder. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

Appeals from all final orders and judgments entered by the court in review of the final administrative decision of the public body or Department of Labor, may be taken by any party to the action.

Any proceeding in any court affecting a determination of the Department of Labor or public body shall have priority in hearing and determination over all other civil proceedings pending in said court, except election contests.

In all reviews or appeals under this Act, it shall be the duty of the Attorney General to represent the Department of Labor, and defend its determination. The Attorney General shall not represent any public body, except the State, in any such review or appeal.

(Source: P.A. 93-38, eff. 6-1-04.)

COMPLIANCE WITH THE ISSUANCE OF A SUBPOENA

(820 ILCS 130/10) (from Ch. 48, par. 39s-10)

(Text of Section before amendment by P.A. 93-38, in effect until June 1, 2004)

Sec. 10. The presiding officer of the public body, or his or her authorized representative and the Director of the Department of Labor, or his or her authorized representative may administer oaths, take or cause to be taken the depositions of witnesses, and require by

subpoena the attendance and testimony of witnesses, and the production of all books, records, and other evidence relative to the matter under investigation or hearing. Such subpoena shall be signed and issued by such presiding officer or his or her authorized representative, or the Director or his or her authorized representative.

In case of failure of any person to comply with any subpoena lawfully issued under this section or on the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it is the duty of any circuit court, upon application of such presiding officer or his or her authorized representative, or the Director or his or her authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. Such presiding officer and the Director may certify to official acts.

(Source: P.A. 83-334.)

(Text of Section after amendment by P.A. 93-38, taking effect June 1, 2004)

Sec. 10. The presiding officer of the public body, or his or her authorized representative and the Director of the Department of Labor, or his or her authorized representative may interview workers, administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses, and the production of all books, records, and other evidence relative to the matter under investigation or hearing. Such subpoena shall be signed and issued by such presiding officer or his or her authorized representative, or the Director or his or her authorized representative.

Upon request by the Director of Labor or his or her deputies or agents, records shall be copied and submitted for evidence at no cost to the Department of Labor. Every employer upon request shall furnish to the Director or his or her authorized representative, on demand, a sworn statement of the accuracy of the records. Any employer who refuses to furnish a sworn statement of the records is in violation of this Act.

In case of failure of any person to comply with any subpoena lawfully issued under this section or on the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it is the duty of any circuit court, upon application of such presiding officer or his or her authorized representative, or the Director or his or her authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. Such presiding officer and the Director may certify to official acts.

(Source: P.A. 93-38, eff. 6-1-04.)

PREREQUISITES OF PREVAILING WAGES; RECOVERY OF DIFFERENCE

(820 ILCS 130/11) (from Ch. 48, par. 39s-11)

Sec. 11. No public works project shall be instituted unless the provisions of this Act have been complied with. The provisions of this Act shall not be applicable to Federal construction projects which require a prevailing wage determination by the United States Secretary of Labor. The Illinois Department of Labor represented by the Attorney General is empowered to sue for injunctive relief against the awarding of any contract or the continuation of work under any contract for public works at a time when the prevailing wage prerequisites have not been met. Any contract for public works awarded at a time when the prevailing wage prerequisites had not been met shall be void as against public policy and the contractor is prohibited from recovering any damages for the voiding of the contract or pursuant to the terms of the contract. The contractor is limited to a claim for amounts actually paid for labor and materials supplied to the public body. Where objections to a determination of the prevailing rate of wages or a court action relative thereto is pending, the public body shall not continue work on the project unless sufficient funds are available to pay increased wages if such are finally determined or unless the Department of Labor certifies such determination of the prevailing rate of wages as correct.

Any laborer, worker or mechanic employed by the contractor or by any sub-contractor under him who is paid for his services in a sum less than the stipulated rates for work done under such contract, shall have a right of action for whatever difference there may be between the amount so paid, and the rates provided by the contract together with costs and such reasonable attorney's fees as shall be allowed by the court. Such contractor or subcontractor shall also be liable to the Department of Labor for 20% of such underpayments and shall be additionally liable to the laborer, worker or mechanic for punitive damages in the amount of 2% of the amount of any such penalty to the State for underpayments for each month following the date of payment during which such underpayments remain unpaid. The Department shall also have a right of action on behalf of any individual who has a right of action under this Section. An action brought to recover same shall be deemed to be a suit for wages, and any and all judgments entered therein shall have the same force and effect as other judgments for wages. At the request of any laborer, workman or mechanic employed by the contractor or by any subcontractor under him who is paid less than the prevailing wage rate required by this Act, the Department of Labor may take an assignment of such wage claim in trust for the assigning laborer, workman or mechanic and may bring any legal action necessary to collect such claim, and the contractor or subcontractor shall be required to pay the costs incurred in collecting such claim.

(Source: P.A. 86-799.)

PUBLICATION OF VIOLATORS

(820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

(Text of Section before amendment by P.A. 93-38, in effect until June 1, 2004)

Sec. 11a. The Director of the Department of Labor shall publish in the Illinois Register no less often than once each calendar quarter a list of contractors or subcontractors found to have disregarded their obligations to employees under this Act. The Department of Labor shall determine the contractors or subcontractors who, on 2 separate occasions, have been determined to have violated the provisions of this Act. Upon such determination the Department shall notify the violating contractor or subcontractor. Such contractor or subcontractor shall then have 10 working days to request a hearing by the Department on the alleged violations. Failure to respond within the 10 working day period shall result in automatic and immediate placement and publication on the list. If the contractor or subcontractor requests a hearing within the 10 working day period, the Director shall set a hearing on the alleged violations. Such hearing shall take place no later than 30 calendar days after the receipt by the Department of Labor of the request for a hearing. The Department of Labor is empowered to promulgate, adopt, amend and rescind rules and regulations to govern the hearing procedure. No contract shall be awarded to a contractor or subcontractor appearing on the list, or to any firm, corporation, partnership or association in which such contractor or subcontractor has an interest until 2 years have elapsed from the date of publication of the list containing the name of such contractor or subcontractor.

(Source: P.A. 86-693; 86-799; 86-1028.)

(Text of Section after amendment by P.A. 93-38, taking effect June 1, 2004)

Sec. 11a. The Director of the Department of Labor shall publish in the Illinois Register no less often than once each calendar quarter a list of contractors or subcontractors found to have disregarded their obligations to employees under this Act. The Department of Labor shall determine the contractors or subcontractors who, on 2 separate occasions, have been determined to have violated the provisions of this Act. Upon such determination the Department shall notify the violating contractor or subcontractor. Such contractor or subcontractor shall then have 10 working days to request a hearing by the Department on the alleged violations. Failure to respond within the 10 working day period shall result in automatic and immediate placement and publication on the list. If the contractor or subcontractor requests a hearing within the 10

working day period, the Director shall set a hearing on the alleged violations. Such hearing shall take place no later than 45 calendar days after the receipt by the Department of Labor of the request for a hearing. The Department of Labor is empowered to promulgate, adopt, amend and rescind rules and regulations to govern the hearing procedure. No contract shall be awarded to a contractor or subcontractor appearing on the list, or to any firm, corporation, partnership or association in which such contractor or subcontractor has an interest until 2 years have elapsed from the date of publication of the list containing the name of such contractor or subcontractor. (Source: P.A. 93-38, eff. 6-1-04.)

DISCHARGE OR DISCIPLINE OF "WHISTLE BLOWERS" PROHIBITED

(820 ILCS 130/11b)

Sec. 11b. Discharge or discipline of "whistle blowers" prohibited.

(a) No person shall discharge, discipline, or in any other way discriminate against, or cause to be discharged, disciplined, or discriminated against, any employee or any authorized representative of employees by reason of the fact that the employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of this Act, or offers any evidence of any violation of this Act.

(b) Any employee or a representative of employees who believes that he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) of this Section may, within 30 days after the alleged violation occurs, apply to the Director of Labor for a review of the discharge, discipline, or alleged discrimination. A copy of the application shall be sent to the person who allegedly committed the violation, who shall be the respondent. Upon receipt of an application, the Director shall cause such investigation to be made as he or she deems appropriate. The investigation shall provide an opportunity for a public hearing at the request of any party to the review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least 5 days before the hearing. Upon receiving the report of the investigation, the Director shall make findings of fact. If the Director finds that a violation did occur, he or she shall issue a decision incorporating his or her findings and requiring the party committing the violation to take such affirmative action to abate the violation as the Director deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his or her former position and compensating him or her for the time he or she was unemployed. If the Director finds that there was no violation, he or she shall issue an order denying the application. An order issued by the Director under this Section shall be subject to judicial review under the Administrative Review Law.

(c) The Director shall adopt rules implementing this Section in accordance with the Illinois Administrative Procedure Act.

(Source: P.A. 88-359.)

SEVERABILITY

(820 ILCS 130/12) (from Ch. 48, par. 39s-12)

Sec. 12. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The General Assembly hereby declares that it would have passed this Act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts might be declared unconstitutional.

(Source: Laws 1941, vol. 1, p. 703.)

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